# PRIVATE MOTOR INSURANCE MARKET INVESTIGATION

## Theory of harm 1: Overcosting and overprovision of TRVs

### Introduction

1. Under theory of harm (ToH) 1, we are investigating whether the separation of cost liability and cost control in the supply of services (excluding personal injury) to non-fault parties involved in motor accidents increases the costs of the services supplied.

2. In this paper, we assess whether there is overcosting and overprovision of temporary replacement vehicle (TRV) services provided to non-fault claimants due to the provider of these services (the non-fault insurer, claims management company (CMC) or credit hire company (CHC)) being different from the party which pays for them (the fault insurer).

3. By 'overcosting', we refer to the overall difference in the cost to the fault insurer of TRV services provided to a non-fault claimant between when the party paying for the services procures them and when another party procures them.[1] We recognize that the overall difference in cost may be in part the result of underlying differences in the business models of different providers, and we discuss these differences in this paper. In our analysis of 'overprovision' we consider whether there are differences between the TRV services which a non-fault customer receives and those to which he/she is entitled and desires.[2]

[1] We do not use the term 'overcosting' pejoratively as any differences in costs may arise for legitimate reasons. The term refers to the costs of a TRV service provided by a non-fault insurer or CMC/CHC being 'over and above' the costs of a TRV service provided by a fault insurer (ie where there is no separation of cost liability and cost control). The term should be distinguished from 'overcharging'.

[2] Some non-fault customers might choose to receive a service which is less than their legal entitlement.

4. This paper represents part of our current thinking on the overall effect of the separation of cost liability and cost control (ie ToH 1).[3]

## Summary

### *Credit hire/direct hire*

5. TRV services can be provided to non-fault customers under a credit hire or direct hire agreement. We have compared the costs of credit hire (where a TRV is supplied on credit to the non-fault claimant by a CMC/CHC and the cost is subsequently recovered from the fault insurer) with the costs of direct hire (where a TRV is supplied either by the fault insurer or by the non-fault insurer, in the latter case often pursuant to a bilateral agreement between the non-fault insurer and the fault insurer, with the costs recovered from the fault insurer).

6. We have found that credit hire appears to be more expensive than direct hire. On average, insurers pay around twice as much for a credit hire vehicle than for a direct hire vehicle. This is driven principally by a higher daily rate but also by a longer hire duration. Our analysis has found that the average credit hire daily rate is between about 50 and 120 per cent higher than the average direct hire daily rate. The average credit hire duration is about 3.7 days longer than the average direct hire duration.

7. The higher daily rate of credit hire compared with direct hire appears to be, at least in part, a result of the different incentives of and constraints on the different providers. For a direct hire provider, the daily rate is the result of competition against other direct hire providers and negotiation with an insurer in respect of a large volume of prospective direct hires. For a credit hire provider, the daily rate is usually set by the General Terms of Agreement (GTA) (the majority of credit hire claims are settled

[3] See also the working papers ‘ToH 1: Overcosting and overprovision of repairs’, ‘ToH 1: Analysis of the results of the non-fault survey in relation to overprovision’, ‘ToH 1: Statistical analysis of claims costs’ and ‘ToH 1/2: Vehicle write-offs’.

under the GTA) and, in practice, the only limitation is that the rate represents the reasonable costs that can be recovered from the fault insurer under tort law.

8. However, the business model of a CMC/CHC which provides credit hire involves some additional costs and some additional services compared with direct hire.

***Additional costs***

9. In seeking to analyse the higher daily hire rate of credit hire compared with direct hire, we have looked at the underlying costs borne by providers under the two models. The two principal additional costs which arise in the provision of credit hire compared with direct hire are referral fees and frictional costs. Both these costs provide some evidence of overcosting.

10. Referral fees constitute a cost of acquiring business for a CMC/CHC. CMCs/CHCs appear to compete to be selected by insurers and brokers (and others) to provide services to their non-fault customers by, among other things, paying higher referral fees. In doing so, referral fees have the effect of enabling non-fault insurers and brokers to extract some of the profits generated by CMCs/CHCs in the provision of credit hire (and other services). Therefore, it appears to us that the level of referral fees may be an indication of the extent of the underlying profitability (ie prior to referral fees being paid) in credit hire (and other services).

11. Frictional costs arise from the administration, management and settlement of non-fault claims and are generated by the fault insurer attempting to minimize the cost of claims passed on to it by a non-fault insurer or CMC/CHC, and by the non-fault insurer or CMC/CHC defending its claim. It appears to us that the frictional costs incurred by fault insurers and CMCs/CHCs taken together amount to around between £46 million and £186 million. The establishment of various mitigation strategies by

both insurers and CMCs/CHCs, including the GTA and bilateral agreements, seek to reduce both the level of the claim (eg the daily hire rate and/or the hire duration) and the frictional costs associated with such claims.

12. Some of the other additional costs incurred in the provision of credit hire (eg bad debt provision and the cost of credit) reflect the inherent risk and the associated costs of the credit hire business model.

### *Additional services*

13. We have found that credit hire durations are on average 3.7 days longer than direct hire durations (see paragraph 6), which might indicate the provision of TRV services under credit hire for an unnecessarily long period. However, hire duration is largely determined by repair duration and it is not clear from the evidence that we have seen so far that non-fault repair durations are longer when a non-fault claimant is provided with TRV services under credit hire than under direct hire.

14. The non-fault driver is entitled to recover the reasonable costs of car hire, provided the reasonable need for an alternative vehicle can be established. In practice, this usually involves the provision of a TRV which is broadly equivalent to the customer's own vehicle (often referred to as a 'like-for-like' TRV) for as long as is reasonably necessary. This is subject to the non-fault driver's duty to mitigate their loss with consideration to their need. We have seen some evidence that non-fault customers are not always invited to consider whether their needs would be met with a lower class of TRV, whether handled by a CMC/CHC or the fault insurer (ie captured). However, given the small sample of cases which we have reviewed so far, we treat this evidence with some caution.

15. Some additional services are often provided by CMCs/CHCs to non-fault claimants under a credit hire agreement, which are beyond the level of services provided by a fault insurer to a captured non-fault claimant (eg the delivery and collection of the TRV, a collision damage waiver for the TRV, after-the-event (ATE) insurance, and uninsured loss recovery services). However, we have seen no evidence to suggest that this difference in provision results in consumer harm.

## Outline of the paper

16. In this paper, we analyse the cost of credit hire and direct hire and we estimate the overall cost differential between these two forms of TRV provision. We consider the extent to which this differential represents overcosting and we consider some of the cost elements which give rise to it. We also consider differences in the services provided between credit hire and direct hire and we assess whether there is evidence of overprovision in any aspect of these services.

17. The paper is structured as follows:

*(a)* Background to the provision of post-accident TRV services.

*(b)* Differences between credit hire and direct hire costs.

*(c)* Overcosting of credit hire, including an analysis of (i) the payment of referral fees by CMCs/CHCs to non-fault insurers and brokers (and others) in order to provide credit hire services; and (ii) the frictional costs incurred by both insurers (fault and non-fault) and CMCs/CHCs in relation to the provision of credit hire services.

*(d)* Overprovision of credit hire, including an analysis of the service differentials between credit hire and direct hire.

## Background

18. A fault insurer is legally responsible (on behalf of the fault party) for the reasonable costs of restoring the non-fault driver to their pre-accident position. If the non-fault

driver's vehicle is temporarily unavailable (generally due to repairs), this involves compensating the non-fault driver for the temporary loss of use of their vehicle. The non-fault driver is entitled to recover the reasonable costs of car hire, provided the reasonable need[4] for an alternative vehicle can be established. In practice, this usually involves the provision of a TRV which is broadly equivalent to the customer's own vehicle (often referred to as a 'like-for-like' TRV) for as long as is reasonably necessary.[5] This is subject to the non-fault driver's duty to mitigate their loss with consideration to their need.[6]

19. Non-fault claimants might have their non-fault claim managed by their non-fault insurer through a claim under their own PMI policy, by a CMC/CHC (eg upon referral by the non-fault insurer, broker or another party), or by the fault insurer if 'captured'. Elements of a non-fault claim (eg repairs and TRV provision) may be handled by different parties.

20. When non-fault claimants make a claim under their own PMI policy, they typically receive a TRV in accordance with the terms of their policy. This may be a courtesy car from the insurer's repairer (if the non-fault insurer is also managing the customer's repair) or, where the customer has purchased additional cover, a like-for-like TRV from the non-fault insurer's direct hire TRV provider. On occasion, if the non-fault insurer is satisfied that the customer is not at-fault, it might provide a vehicle of a higher class compared with the customer's contractual entitlement because it believes the customer is entitled to it under tort law and, therefore, the cost of this vehicle can be legitimately recovered from the fault insurer.

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[4] In the case of a private individual who has lost access to their vehicle following a road accident, the scenarios in which they would clearly not have need for an alternative vehicle are likely to be relatively limited (eg because they have access to another vehicle or because they are on holiday abroad for the period in which their own car is unavailable).
[5] The hire duration is usually determined by the repair duration.
[6] A non-fault driver can only claim the costs of credit associated with a credit hire if they can demonstrate that it was reasonable in the circumstances to hire the TRV on credit (ie the customer is impecunious). However, the assessment of what the tort law entitlement requires in a given case will be informed by the specific facts of that case, which, in view of the nature of the 'impecuniosity test', may lead to some practical difficulties for CMCs/CHCS in assessing whether a non-fault customer requires a TRV on credit terms.

21. When a non-fault customer's claim is handled by a CMC/CHC, often following a referral by a non-fault insurer or broker, the TRV is usually provided under credit hire.

22. Direct hire applies principally when a fault insurer captures a non-fault claim, or when a non-fault insurer is party to a bilateral agreement with the relevant fault insurer, or when the fault insurer and the non-fault insurer are the same. Some non-fault customers whose claims are handled by the fault insurer receive a courtesy car from the fault insurer's repairer handling the repair.

23. Table 1 summarizes the different ways in which TRV services are typically provided to non-fault claimants.

TABLE 1 **Typical provision of TRV services to non-fault claimants**

| *Insurer controlling claim* | *Credit hire* | *Direct hire* |
|---|---|---|
| Fault insurer | N/A | Referral of captured non-fault customer to a direct hire provider. On average, 35 per cent (a range of 10 to 81 per cent across nine of the ten largest insurers) of captured non-fault customers receive a direct hire TRV. (The remaining captured non-fault customers receive a courtesy car through an approved repairer or do not require a TRV.) |
| Non-fault insurer | Referral to a CMC/CHC for credit hire. On average, 38 per cent (a range of 10 to 81 per cent across nine of the top ten insurers) of non-fault customers managed by a non-fault insurer receive a credit hire TRV. (The remaining customers receive a courtesy car, a direct hire TRV under their own PMI policy, a direct hire TRV for the reasons set out in the next box, or do not require a TRV). | Referral to a direct hire provider if fault insurer and non-fault insurer are party to a bilateral agreement or if fault insurer and non-fault insurer are the same. |

*Source:* See Appendix A.

### *Credit hire*

24. If a non-fault insurer or broker controls a customer's non-fault claim, the customer will often receive a TRV from a CMC/CHC under a credit hire agreement, following a referral to the CMC/CHC from the insurer or broker (for which the insurer or broker earns a fee). Assuming the CMC/CHC also assesses the claimant to be non-fault, the CMC/CHC will typically then provide a like-for-like TRV to the non-fault claimant,

subject to some checks regarding the claimant’s duty to mitigate their loss with consideration to their need, and will recover the cost from the fault insurer.

25. With the exception of CISGIL (Co-op),[7] all of the ten largest PMI insurers told us that they referred some of their non-fault customers, with the customer’s consent, to a CMC or CHC for the provision of TRV services under a credit hire agreement.

*GTA*

26. With the exception of AXA, all ten of the insurers in our sample subscribe to the GTA.[8]

27. The GTA is a voluntary non-binding protocol which sets out the arrangements between insurer and CMC/CHC subscribers for the provision of credit hire TRVs to non-fault customers. It was established with the intention of removing confrontation, avoiding costly litigation in disputing the cost of credit hire and stimulating collaboration in the management and settlement of credit hire claims.

28. Although subscription to the GTA is voluntary, the Credit Hire Organisation (CHO) (a trade body) told us that it estimated that the GTA was supported by CHCs/CMCs and insurers which accounted for about 90 per cent of the credit hire market in the UK. According to the CHO, about 77 per cent of credit hire and credit repair claims are settled under the GTA (see Table 2). The remaining cases, which are handled initially within the GTA but then ‘fall out’, are settled through negotiation and, often, litigation.[9]

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[7] CISGIL told us that it did not refer its non-fault customers directly to CHCs. However, it said that it referred its non-fault customers with motor legal expenses insurance (MLEI) cover to Co-operative Legal Services (CLS) in respect of their uninsured losses. CLS managed these customers' claims against the fault party, including the provision of a TRV. CISGIL said that around [✂] per cent of these customers were referred, on the basis of need, by CLS to [✂] for the provision of a TRV on credit hire terms.

[8] [✂] told us that all of its brands subscribed to the GTA with the exception of [✂].

[9] Under the GTA, a CMC/CHC can pursue payment outside the terms of the GTA for claims not settled within 90 days, ie through litigation.

TABLE 2 **Credit hire and credit repair claims settled under the GTA, 2009 to 2011**

| | *2009* | *2010* | *2011* |
|---|---|---|---|
| Proportion of credit hire and credit repair claims settled under the GTA (%) | 76 | 77 | 77 |
| Credit hire and credit repair claims issued under the GTA | 23,500 | 28,400 | 19,200 |
| GTA claims resulting in a court case | 2,290 | 2,270 | 1,590 |

*Source:* CHO.

29. The GTA covers the terms, conditions and rates of credit hire for TRVs provided to non-fault customers in the UK. The GTA hire rates are agreed between the insurance industry and the CMCs/CHCs by a Technical Committee, which is constituted with equal representation by insurers and CMCs/CHCs and an independent Chairman.

30. The GTA Technical Committee is currently conducting a feasibility study into the establishment of a GTA portal, which would be an online tool to improve the management of credit hire claims and reduce administrative costs for both insurers and CMCs/CHCs. The concept has received backing from both insurers and CMCs/CHCs.

31. We consider the role of the GTA as a way in which insurers and CMCs/CHCs mitigate frictional costs in paragraphs 91 to 94.

### *Direct hire*

32. Direct hire vehicles are often supplied to non-fault claimants when the fault insurer captures and controls the non-fault claim or where there is a bilateral agreement in place between the fault insurer and the non-fault insurer or where the fault insurer is also the non-fault insurer.

33. Under a direct hire agreement, the fault insurer arranges and pays for a TRV through its contracted provider at pre-agreed rates. Six of the ten CMCs/CHCs in our sample

(Accident Exchange, Ai Claims Solutions, Enterprise, Helphire, Kindertons and WNS Assistance) told us that, as well as providing credit hire services, they also provide direct hire services to fault customers and captured non-fault customers (following a referral from the fault insurer).

### *Non-fault party capture*

34. Insurers told us that, when they were the fault insurer, they often attempted to capture the non-fault claimant, in order to control the costs of the claim, including the cost of a TRV. Table 3 shows the varied success of insurers in non-fault party capture.

TABLE 3 **Insurer non-fault party capture rates, 2012**

| | *Third party capture rate %** |
|---|---|
| Admiral | [✂] |
| Ageas Insurance | [✂] |
| Aviva | [✂] |
| AXA UK | [✂] |
| AXA Northern Ireland | [✂] |
| CISGIL | [✂] |
| DLG | [✂] |
| Esure | [✂] |
| LV= | [✂] |
| RSA | [✂] |
| Zurich | [✂] |
| Unweighted average | 25 |

*Source:* Insurers.

*The capture rate is the proportion of successful captures (where the insurer has captured at least one element of the non-fault party's claim) from all capture attempts. Therefore, in part, the different capture rates represent the different degrees to which insurers attempt to capture.

35. Fault insurers capture non-fault claimants by contacting them directly as early as possible following an accident where their customer appears to be at fault. They usually obtain the contact details of the non-fault party from their fault customer during the first notification of loss (FNOL) process. Where the fault customer cannot provide full contact information, the insurer will use a range of easily available data sources to obtain or verify the details. For example, AXA told us that [✂].

36. With the exception of [✂],[10] all the insurers in our sample told us that [✂].

37. The results of our survey of non-fault customers (see the working paper 'Survey report') suggest that the first contact following an accident is a key factor in determining which party ultimately handles the claim. The results show that, where the first contact following the accident was the non-fault insurer, 68 per cent of claims were ultimately handled by the non-fault insurer; and where the first contact following the accident was the fault insurer, 82 per cent of claims were ultimately handled by the fault insurer. We discuss the evidence from our survey further in the working paper 'ToH 1: Analysis of the results of the non-fault survey in relation to overprovision'.

38. The primary cost incurred by insurers in capturing non-fault parties is the cost of employing claims handlers to try to identify and contact these parties (usually by following up an inbound call from a fault customer with an outbound call to the non-fault party). Esure told us that this claims handling cost was around £[✂] per claim. LV= told us that it estimated it cost around £[✂] to capture a non-fault party.

*Bilateral agreements*

39. Five of the ten insurers in our sample told us that they had bilateral agreements relating to TRV services with other insurers ([✂],[✂],[✂],[✂] and [✂]) (see Table 4).

TABLE 4 **Insurer mobility bilateral agreements**

[✂]

*Source:* Insurers.

* [✂] bilateral agreement with [✂] only applies to [✂] brand.

[10] [✂].

40. Where such bilateral agreements exist, fault insurers can avoid the referral of a non-fault claimant to a CMC/CHC by the non-fault insurer and can reduce frictional costs by, typically, mutually agreeing to provide a TRV to their non-fault customers at direct hire rates.

*Alternative model*

41. Enterprise told us that it had recently entered the credit hire market with a subscriber model for the provision of TRVs to non-fault claimants. It said that, where both the fault and non-fault insurer were subscribers to its model, it would pay the non-fault insurer a referral fee for referring its non-fault customer to Enterprise and it would invoice the fault insurer for *(a)* the cost of the hire and *(b)* the referral fee it had paid. However, the cost of the hire would be at contracted direct hire rates rather than at credit hire rates. The fault insurer would be required to pay the invoice within [✂] days.

***Northern Ireland***

42. There are several commercial and legal differences between Northern Ireland and the rest of the UK in relation to the provision of TRV services. The main differences appear to us to be:

   *(a)* CMCs/CHCs are less prevalent in Northern Ireland than in the rest of the UK. It has been put to us that this might be due to:

      (i) The effective ban of the payment of referral fees by solicitors in Northern Ireland. Although referral fees are not explicitly prohibited in Northern Ireland, they are effectively banned by the operation of Article 28 of the Solicitors (NI) Order 1976, which prohibits the sharing of profits or fees with an unqualified person. In England and Wales, the growth of the claims management industry coincided with the lifting of the ban on referral fees to solicitors in 2004.

(ii) Means-tested legal aid for personal injury cases.[11] The Belfast Solicitor's Association (BSA) told us that 45 per cent of people were financially entitled to legal aid in Northern Ireland (although we understand that this entitlement is currently under review). Consequently, non-fault claimants pursuing compensation were less likely to require the services of a CMC/CHC, in order to negate the risk of having to bear the costs should they be unsuccessful in their claim.

*(b)* The GTA is not used as much in Northern Ireland. For example, Crash Services, a leading CMC/CHC in Northern Ireland, does not subscribe to the GTA.

*(c)* The Ministry of Justice (MoJ), which includes the MoJ's Claims Management Regulator, does not have jurisdiction in Northern Ireland, meaning that CMCs/CHCs in Northern Ireland are not regulated.

## Cost of credit hire and direct hire

43. Table 5 sets out the average credit hire bill and the average direct hire bill paid by the ten large insurers in our sample, and the average credit hire bill and the average direct hire bill issued by the nine CMCs/CHCs in our sample. The amounts paid by insurers will include amounts paid to providers of TRVs other than CMCs/CHCs.

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[11] We note that personal injury cases were within the scope of the England and Wales legal aid scheme prior to the introduction of Conditional Fee Agreements (CFAs) in 1998.

TABLE 5 **Average cost of credit hire and direct hire**

| *Insurer/CMC/CHC* | *Average credit hire bill paid/issued by insurer/CMC/CHC* £ | *Average direct hire bill paid/issued by insurer/CMC/CHC* £* | *Difference* £ | *Multiple of average credit hire bill over average direct hire bill* |
|---|---|---|---|---|
| *Insurer* | | | | |
| Admiral | [✂] | [✂] | [✂] | [✂] |
| Ageas Insurance | [✂] | [✂] | [✂] | [✂] |
| Aviva | [✂] | [✂] | [✂] | [✂] |
| AXA UK | [✂] | [✂] | [✂] | [✂] |
| AXA Northern Ireland | [✂] | [✂] | [✂] | [✂] |
| CISGIL | [✂] | [✂] | [✂] | [✂] |
| DLG | [✂] | [✂] | [✂] | [✂] |
| Esure | [✂] | [✂] | [✂] | [✂] |
| LV= | [✂] | [✂] | [✂] | [✂] |
| RSA | [✂] | [✂] | [✂] | [✂] |
| Zurich | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | 1,301 | 647 | 654 | 2.0x |
| *CMC/CHC* | | | | |
| Accident Exchange† | [✂] | [✂] | [✂] | [✂] |
| ACM‡ | [✂] | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] | [✂] |
| ClaimFast§ | [✂] | [✂] | [✂] | [✂] |
| Crash Services¶ | [✂] | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | 1,181 | 590 | 591 | 2.0x |
| Overall unweighted average | 1,241 | 618 | 622 | 2.0x |

*Source:* Insurers and CMCs/CHCs.

*The direct hire data may include fault claims.
†[✂].
‡ACM is a CMC and does not provide credit hire or direct hire services.
§ClaimFast does not provide direct hire services, except as an outsourced function for [✂].
¶Crash Services does not provide direct hire services.

44. Table 5 shows (on an unweighted average basis) that insurers pay around twice as much for a credit hire vehicle than for a direct hire vehicle, and this data is confirmed by CMCs/CHCs charging around twice as much for a credit hire vehicle than for a direct hire vehicle. The value of this difference is about £600.

45. Credit hire bills and direct hire bills are usually calculated simply by multiplying the daily hire rate by the hire duration (ie the number of days), so we now discuss each of these elements in turn.

### *Daily rate*

46. The daily rate is determined by the type of vehicle. For credit hire claims, the GTA sets the maximum daily rate for each vehicle class, which will be the rate typically charged by a subscribing CMC/CHC. Table 6 presents a comparison of the credit hire daily rates of the GTA with the average direct hire daily rates of both insurers and CMCs/CHCs for different vehicles. Table 7 presents a comparison of average credit hire daily rates and average direct hire daily rates paid by insurers and charged by CMCs/CHCs.

TABLE 6 **Comparison of GTA credit hire daily rates and insurer and CHC/CMC direct hire daily rates**

| *GTA vehicle category* | *Example vehicle* | *GTA credit hire daily rate £* | *Average insurer direct hire daily rate £** | *Multiple of GTA rate over average insurer direct hire rate* | *Average CHC/CMC direct hire daily rate £** | *Multiple of GTA rate over average CHC/CMC direct hire rate* |
|---|---|---|---|---|---|---|
| *Standard* | | | | | | |
| S1 | Peugeot 107 | [✂] | [✂] | [✂] | [✂] | [✂] |
| S4 | Ford Focus 1.6 | [✂] | [✂] | [✂] | [✂] | [✂] |
| S5 | Ford Mondeo 1.8 | [✂] | [✂] | [✂] | [✂] | [✂] |
| S7 | Peugeot 607 | [✂] | [✂] | [✂] | [✂] | [✂] |
| Weighted average | | | | 2.1x | | 1.6x |
| *MPV* | | | | | | |
| M1 | Ford Focus C-Max 1.4/1.6 | [✂] | [✂] | [✂] | [✂] | [✂] |
| M3 | Ford Galaxy | [✂] | [✂] | [✂] | [✂] | [✂] |
| M4 | Mercedes Benz Viano 2.0 | [✂] | [✂] | [✂] | [✂] | [✂] |
| Weighted average | | | | 2.2x | | 1.5x |
| *4x4* | | | | | | |
| F1 | Toyota RAV4 2.0 | [✂] | [✂] | [✂] | [✂] | [✂] |
| F3 | BMW X3 2.0 | [✂] | [✂] | [✂] | [✂] | [✂] |
| F5 | BMW X5 3.0 | [✂] | [✂] | [✂] | [✂] | [✂] |
| F9 | Porsche Cayenne Turbo 4.5 | [✂] | [✂] | [✂] | [✂] | [✂] |
| Weighted average | | | | 2.2x | | 1.4x |
| *Prestige* | | | | | | |
| P1 | BMW 116 1.6 | [✂] | [✂] | [✂] | [✂] | [✂] |
| P4 | BMW 320 2.0 | [✂] | [✂] | [✂] | [✂] | [✂] |
| P5 | BMW 520 2.0 | [✂] | [✂] | [✂] | [✂] | [✂] |
| P8 | BMW 730 3.0 | [✂] | [✂] | [✂] | [✂] | [✂] |
| P11 | Bentley Continental | [✂] | [✂] | [✂] | [✂] | [✂] |
| Weighted average | | | | 2.2x | | 1.6x |
| *Sports* | | | | | | |
| SP1 | Mini Cooper 1.6 | [✂] | [✂] | [✂] | [✂] | [✂] |
| SP4 | Audi TT Coupe 1.8T | [✂] | [✂] | [✂] | [✂] | [✂] |
| SP8 | BMW 325 Cabriolet | [✂] | [✂] | [✂] | [✂] | [✂] |
| SP9 | BMW 630 | [✂] | [✂] | [✂] | [✂] | [✂] |
| SP10 | BMW M5 | [✂] | [✂] | [✂] | [✂] | [✂] |
| SP11 | Aston Martin Vantage 6.0 | [✂] | [✂] | [✂] | [✂] | [✂] |
| Weighted average | | | | 2.2x | | 1.6x |
| Overall weighted average | | | | 2.2x | | 1.5x |

*Source:* Insurers and CMCs/CHCS.

*The direct hire data may include fault claims.
*Note:* The weighted averages are based on the prevalence of each vehicle within each vehicle category.

TABLE 7 **Average credit hire daily rate and direct hire daily rate paid/charged by insurers/CHCs/CMCs**

| *Insurer/CMC/CHC* | *Average credit hire daily rate £* | *Average direct hire daily rate £** | *Difference £* | *Multiple of average credit hire rate over average direct hire rate* |
|---|---|---|---|---|
| *Insurer* | | | | |
| Admiral | [✂] | [✂] | [✂] | [✂] |
| Ageas Insurance | [✂] | [✂] | [✂] | [✂] |
| Aviva | [✂] | [✂] | [✂] | [✂] |
| AXA UK | [✂] | [✂] | [✂] | [✂] |
| AXA Northern Ireland | [✂] | [✂] | [✂] | [✂] |
| CISGIL | [✂] | [✂] | [✂] | [✂] |
| DLG | [✂] | [✂] | [✂] | [✂] |
| esure | [✂] | [✂] | [✂] | [✂] |
| LV= | [✂] | [✂] | [✂] | [✂] |
| RSA | [✂] | [✂] | [✂] | [✂] |
| Zurich | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | 67.56 | 32.40 | 35.16 | 2.1x |
| *CMC/CHC* | | | | |
| Accident Exchange | [✂] | [✂] | [✂] | [✂] |
| ACM† | [✂] | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] | [✂] |
| ClaimFast‡ | [✂] | [✂] | [✂] | [✂] |
| Crash Services§ | [✂] | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | 54.19 | 26.41 | 27.78 | 2.1x |
| Overall unweighted average | 60.88 | 29.41 | 31.47 | 2.1x |

*Source:* Insurers and CMCs/CHCs.

*The direct hire data may include fault claims.
†ACM is a CMC and does not provide credit hire or direct hire services.
‡ClaimFast does not provide direct hire services, except as an outsourced function for [✂].
§Crash Services does not provide direct hire services.

47. Table 6 shows that the average GTA credit hire daily rate is between about 50 and 120 per cent higher than the average direct hire daily rate. Table 7 shows (on an unweighted average basis) that average credit hire daily rates are around twice as much as average direct hire daily rates. GTA credit hire daily rates are higher than average direct hire daily rates for all vehicle categories and for all insurers from which we gathered data.

48. The higher daily rate of credit hire compared with direct hire appears to be, at least in part, a result of the different incentives of and constraints on the different providers. For a direct hire provider, the daily rate is the result of competition against other direct hire providers and negotiation with an insurer in respect of a large volume of prospective direct hires. For a credit hire provider, the daily rate is usually set by the

GTA and, in practice, the only limitation is that the rate represents the reasonable costs that can be recovered from the fault insurer under tort law.

## *Hire duration*

49. Table 8 compares the average credit hire and direct hire duration. The evidence provided by insurers suggests that the average credit hire duration is about 3.7 days longer than the average direct hire duration. Although the evidence provided by CMCs/CHCs was limited, where figures were provided, the average credit hire duration was longer than the average direct hire duration. Our survey results also found that a greater proportion of claims handled by CMCs/CHCs resulted in long hire periods (eg of three weeks or more) than claims handled by insurers.

TABLE 8 **Average credit hire and direct hire durations**

| *Insurer/CMC/CHC* | *Average credit hire duration (days)* | *Average direct hire duration (days)** | *Difference (days)* |
|---|---|---|---|
| *Insurer* | | | |
| Admiral | [✂] | [✂] | [✂] |
| Ageas Insurance | [✂] | [✂] | [✂] |
| Aviva | [✂] | [✂] | [✂] |
| AXA | [✂] | [✂] | [✂] |
| CISGIL | [✂] | [✂] | [✂] |
| DLG | [✂] | [✂] | [✂] |
| esure | [✂] | [✂] | [✂] |
| LV= | [✂] | [✂] | [✂] |
| RSA | [✂] | [✂] | [✂] |
| Zurich | [✂] | [✂] | [✂] |
| Unweighted average | 15.5 | 11.8 | 3.7 |
| *CMC/CHC* | | | |
| Accident Exchange | [✂] | [✂] | [✂] |
| ACM† | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] |
| ClaimFast‡ | [✂] | [✂] | [✂] |
| Crash Services§ | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] |
| Kindertons¶ | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] |
| Unweighted average | 18.5 | 13.5 | 5.0 |
| Overall unweighted average | 17.0 | 12.7 | 4.3 |

*Source:* Insurers and CMCs/CHCs.

*The direct hire data may include fault claims.
†ACM is a CMC and does not provide credit hire or direct hire services.
‡ClaimFast does not provide direct hire services, except as an outsourced function for [✂].
§Crash Services does not provide direct hire services.
¶Kindertons' average credit hire duration is based on the average time taken to complete a credit repair (performed by Kindertons) on a repairable and roadworthy vehicle.

50. We note that the difference between the average credit hire and direct hire duration could be due to:

*(a)* the mix of claims, ie with TRVs for more complex claims, which require longer repair periods, being provided under credit hire;

*(b)* the underprovision of TRV services under a direct hire agreement in relation to duration (though we have not found any evidence to support this view (see the working paper 'ToH2: Underprovision of TRVs'));

*(c)* the manipulation of credit hire durations (eg by disproportionately booking in vehicles for repair on Fridays or returning them on Mondays, or by extending repair durations) (see paragraphs 122 to 134); and/or

*(d)* the overprovision of TRV services under a credit hire agreement (see paragraphs 121 to 166).

### *Relative impact of daily rates and hire duration*

51. We considered how much the difference in the cost of credit hire and direct hire (see paragraph 44) is attributable to a higher daily hire rate and how much it is attributable to a longer credit hire duration.

52. Given our finding that the average cost of credit hire appears to be around twice the average cost of direct hire and our finding that the average credit hire daily rate appears to be around twice the average direct hire daily rate, the difference in the daily rate would appear to explain entirely the difference between credit hire and direct hire bills.

53. However, on the basis of the average credit hire duration being 3.7 days longer than the average direct hire duration, we also calculated that around 38 per cent of the difference between the average credit hire bill and the average direct hire bills could be explained by the difference in hire duration, as shown in Table 9.

TABLE 9 **Difference in the cost of credit hire and direct hire bill attributable to a longer credit hire duration**

| | *Average credit hire daily rate £ (A)* | *Difference in average credit hire and direct hire duration (days) (B)* | *Difference between credit hire bill and direct hire bill attributable to a longer credit hire duration £ (AxB =C)* | *Overall difference between credit hire bill and direct hire bill £ (D)* | *Proportion of overall difference between credit hire bill and direct hire bill attributable to a longer average credit hire duration % (E=C/D)* |
|---|---|---|---|---|---|
| Insurer data | 67.56 | 3.7 | 250 | 622 | 38 |

*Source:* CC analysis.

54. Clearly these numbers are not precisely consistent and the differences we have found in the two elements of hire charges (the daily rate and the hire duration) suggest that the difference in the total cost of credit hire and direct hire should be more than the 100 per cent difference we have found. However, they are directionally consistent and they indicate that the difference in the daily rate is the more significant element in causing credit hire to be more expensive than direct hire.

## Overcosting of credit hire

55. In seeking to analyse the higher daily hire rate of credit hire compared with direct hire, we considered the underlying costs borne by providers under the two models. In this section, we discuss the following costs, which would appear to contribute to and/or reflect the overcosting:

*(a)* referral fees;

*(b)* administration costs (both duplicated costs and frictional costs);

*(c)* bad debt provision; and

*(d)* credit risk.

### *Referral fees*

56. A CMC/CHC usually pays a fee to the referring non-fault insurer or broker (or other party), in order to secure the provision of credit hire services to the non-fault customer (a ‘referral fee’).

57. According to the evidence we have seen, most agreements between insurers and direct hire providers do not involve referral fees and, where fees are paid for direct hire, they are typically of much lower value than credit hire referral fees.

58. With the exception of CISGIL (see paragraph 25), all of the ten largest insurers told us that they received fees for credit hire referrals. [✂].

59. Table 10 shows the average referral fee for a credit hire TRV paid by each of the CMCs/CHCs in our sample and received by each of the insurers and brokers in our sample. These averages are between £[✂] and £[✂].

TABLE 10 **Credit hire referral fees received/paid by insurers/brokers/CMCs/CHCs**

| *Insurer/broker/CMC/CHC* | *Average referral fee paid/received per referral £* |
|---|---|
| *Insurers* | |
| Admiral | [✂] |
| Ageas Insurance | [✂] |
| Aviva | [✂] |
| AXA UK | [✂] |
| AXA Northern Ireland* | [✂] |
| CISGIL | [✂] |
| DLG | [✂] |
| Esure | [✂] |
| LV= | [✂] |
| RSA | [✂] |
| Zurich | [✂] |
| Unweighted average | 249–358 |
| | |
| *CMCs/CHCs* | |
| Accident Exchange | [✂] |
| ACM | [✂] |
| Ai Claims Solutions | [✂] |
| ClaimFast | [✂] |
| Crash Services | [✂] |
| Enterprise | [✂] |
| Helphire | [✂] |
| Kindertons | [✂] |
| WNS Assistance | [✂] |
| Unweighted average | 247–310 |
| | |
| *Brokers* | |
| AA | [✂] |
| Ageas Insurance 50† | [✂] |
| BISL‡ | [✂] |
| Castle Cover† | [✂] |
| Endsleigh | [✂] |
| Express Insurance† | [✂] |
| Kwik Fit Insurance† | [✂] |
| Swinton | [✂] |
| The Green Insurance Company† | [✂] |
| UKAIS† | [✂] |
| Unweighted average | 248–277 |
| | |
| Overall unweighted average | 248–315 |

*Source:* Insurers, CMCs/CHCs and brokers.

*AXA Northern Ireland [✂].
†Ageas Insurance had six broking companies at the date of responding to us: Ageas Insurance 50 (trading as RIAS), UKAIS, Castle Cover, Express Insurance Services, Kwik Fit Insurance Services and The Green Insurance Company.
‡BISL did not provide an indication of the average referral fee it receives from a referring party, but it told us that its credit hire referral fee income was £[✂] and £[✂].

60. The significant variation in the estimates of the referral fees paid by CMCs/CHCs and received by insurers and brokers provided in Table 10 reflects:

*(a)* the different forms in which referral fees can be structured (see paragraph 57);

*(b)* the importance of the referring party to the CMC/CHC in securing credit hire revenue (insurers typically handle more non-fault claims than brokers and therefore have more bargaining power against CMCs/CHCs); and

*(c)* the competitive pressure between CMCs/CHCs in securing referrals from all referring parties.

61. Despite the considerable referral fees earned by almost all of the ten largest insurers, these insurers all told us that the size of the referral fee was only one of the factors they considered when establishing or renegotiating an agreement with a CMC/CHC for the provision of credit hire services. These insurers told us that they also considered the quality of the services provided. For example:

*(a)* DLG told us that it required its credit hire provider, [✂], to meet its customer vehicle safety and security requirements and to provide sufficient capacity and coverage of vehicle classes to meet its customer service requirements. DLG said that, in addition, it had key performance indicators (KPIs) within its agreements (eg defining acceptable and unacceptable performance levels for contacting customers in a timely manner) and targets for customer satisfaction and complaints ratios. DLG said that, although the level of referral fee it received was an important consideration, these other criteria had to be met before DLG awarded its business to [✂].

*(b)* Aviva told us that when selecting credit hire providers it took into account the following:

(i) the process for relaying instructions from Aviva to the CMC/CHC;

(ii) the CMC's/CHC's customer service performance, including how sizes of vehicles were determined, time frames for provision, available options for collection and delivery, deposits, fuel policy, excesses, and the process should the hire vehicle be damaged;

(iii) expected service levels; and

(iv) fleet size, branch footprint, internal processes and IT capabilities.

[✂].

*Our assessment*

62. Referral fees constitute a cost of acquiring business for a CMC/CHC. As non-fault insurers and brokers often 'control' the non-fault customer following FNOL, CMCs/CHCs appear to compete to be selected by insurers and brokers (and others) to provide services to their non-fault customers by, among other things, paying higher referral fees. It appears to us that the result of this market structure is that referral fees represent a method by which non-fault insurers and brokers can extract the profits generated by CMCs/CHCs in the provision of credit hire (and other) services. If CMCs/CHCs were able to generate more profits (eg from daily rates rising or hire durations getting longer), we would expect referral fees to go up; and vice versa. We note that CMCs/CHCs are able to secure direct hire referrals from insurers and brokers without the payment of referral fees, competing instead on the price of the services they offer.

63. Overall, it appears to us that the level of referral fees may be an indication of the extent of the underlying profitability (ie prior to referral fees being paid) in credit hire (and other services).

### *Administrative costs*

64. Insurers and CMCs/CHCs incur administrative costs in the management of a credit hire claim, eg in the setting up of the claim, the assessment of liability and the processing and submission of documentation to the fault insurer (in line with GTA guidelines, such as the mitigation statement).[12]

65. We have considered two categories of administrative costs relevant to assessing the effects of the separation of cost liability and cost control: *(a)* duplicated administrative

[12] Under the terms of the GTA, a mitigation statement signed by the customer must be provided by the CMC/CHC to the fault insurer. This statement should set out the reasons why the non-fault customer requires a TRV.

costs, which arise from having two parties (rather than one) involved in the management of a non-fault claim; and *(b)* frictional costs, which arise from having two parties with different interests involved in a non-fault claim.

### *Duplicated administrative costs*

66. Duplicated administrative costs are those costs which arise from both the CMC/CHC managing the claim and the fault insurer, which will ultimately pay for it, conducting similar activities. These costs primarily include the employment of claims handlers to:

*(a)* assess all circumstances relating to the provision of TRV services, including the accident circumstances and the non-fault customer's need for a TRV;

*(b)* assess (prior to the commencement of the hire period) whether the non-fault customer's vehicle is roadworthy;

*(c)* assess whether the customer's vehicle is economical to repair[13] and the repair methodology and cost is reasonable;

*(d)* ensure that the non-fault customer has entered into a binding and enforceable contract for the supply of TRV services;

*(e)* monitor actively the repair of the non-fault customer's vehicle during the hire period or the total loss settlement process (for vehicle write-offs), in order to keep the hire costs to a minimum; and

*(f)* manage the recovery/payment of claims.

The GTA's guidelines specify that payment in settlement of a credit hire or credit repair claim should be made within 30 days of the dispatch of the claim to the fault insurer. If payment is late, the outstanding amount incurs a late payment penalty at both 30 and 60 days. Under the terms of the GTA, a CMC/CHC is entitled to progress settlement outside of the GTA (eg through litigation) if a claim has not been

[13] The assessment of whether a vehicle is economical to repair is determined by comparing the likely cost of repair with the pre-accident value of the vehicle.

settled after 90 days from the dispatch of the claim to the fault insurer. Helphire told us that [✄] per cent of its credit hire claims were not settled within 90 days.

*Frictional costs*

67. Frictional costs arise from the party controlling the credit hire TRV service (the CMC/CHC) having a different interest from the party paying for it (the fault insurer). They are incurred by both the CMC/CHC and the fault insurer.

68. We recognized that, when a fault insurer captures a non-fault claim, frictional costs can arise between the fault insurer and the non-fault customer, as the fault insurer might have an incentive to underprovide services in order to keep costs down. However, we consider the issue of underprovision separately in the working paper 'ToH 2: Underprovision of TRVs'.

69. We have also not assessed in this paper the frictional costs incurred by non-fault insurers, as non-fault insurers often refer their customers to CMCs/CHCs for the provision of TRV services under a credit hire agreement and therefore incur minimal frictional costs (though they do incur some small duplicated administrative costs).[14]

*Frictional costs incurred by CMCs/CHCs*

70. The frictional costs incurred by a CMC/CHC in the provision of credit hire TRV services to non-fault customers include:

*(a)* administrative costs to increase the likelihood of the claim being settled by the fault insurer—these include the costs of complying with the obligations of the GTA; and

[14] Non-fault insurers incur frictional costs in relation to the settlement of non-fault repair costs, as non-fault repairs are more commonly handled by non-fault insurers than the provision of non-fault TRV services. However, insurers told us that repair claims were disputed much less than TRV claims and therefore the frictional costs incurred in relation to repairs were significantly lower than those incurred in relation to credit hire (see the working paper 'ToH 1: Overcosting and overprovision of repairs').

*(b)* costs of pursuing and recovering credit hire claims, including litigation. Under the terms of the GTA, a CMC/CHC is entitled to progress settlement outside the GTA (eg through litigation) if a claim has not been settled 90 days after the dispatch of the claim to the fault insurer (see paragraph 66).

71. Table 11 sets out the frictional costs incurred by the CMCs/CHCs in our sample. It suggests that a CMC/CHC incurs, on average, £[✂] to £[✂] of frictional costs per credit hire TRV claim.[15]

TABLE 11 **Frictional costs incurred by CMCs/CHCs, 2012**

| *CMC/CHC* | *GTA claims* | | *Non-GTA claims* | | *All claims* | | |
|---|---|---|---|---|---|---|---|
| | *Annual costs £* | *Average costs per claim £* | *Annual costs £* | *Average costs per claim £* | *Annual costs £* | *Average costs per claim £* | *Frictional costs as a proportion of average credit hire bill %* |
| Accident Exchange | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| ACM* | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| ClaimFast | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Crash Services† | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | | | | | | | 10 |

*Source:* CMCs/CHCs.

*ACM told us that [✂].
†Crash Services told us that [✂].

72. Five of the nine CMCs/CHCs in our sample were able to provide us with an estimate of their overall frictional costs. However, there was significant variation in these estimates, with these costs representing between [✂] and [✂] per cent of the average credit hire bill. It appeared to us that this reflected the difficulty for CMCs/CHCs to distinguish frictional costs from their general claims management costs.

73. In Appendix B, we present an analysis of the different cost elements which are included within the frictional costs incurred by CMCs/CHCs. Administration costs, in

[15] Many CMCs/CHCs found it difficult to distinguish between duplicated administrative costs (which relate to having two parties involved in managing a claim) and frictional costs (which relate to those two parties having different interests in the claim).

particular the cost of employing claims handlers to manage credit hire claims and to process documentation in line with the GTA, and litigation costs incurred in pursuing the fault insurer for settlement of credit hire claims are the largest elements of the frictional costs incurred by CMCs/CHCs.

74. The level of frictional costs incurred by CMCs/CHCs suggests that considerable resources are expended in order to gain settlement of credit hire claims. We also found that claims often lasted a long period. Accident Exchange told us that its debtor days were [✂] days and that it spent on average around [✂] resolving each claim.[16] Similarly, Ai Claims Solutions told us that its debtor days were over [✂] days and each claim required, on average, [✂] actions from the point of referral to the ultimate recovery of the claim.

75. Only two of the nine CMCs/CHCs in our sample ([✂] and [✂]) were able to provide a breakdown of their frictional costs between GTA and non-GTA credit hire claims. Based on [✂] evidence, frictional costs incurred in relation to non-GTA claims (£[✂] on average per claim) were significantly higher than those incurred in relation to GTA claims (£[✂] on average per claim). We noted that, although the GTA is not binding and is open to interpretation, it does provide a framework for the efficient negotiation and settlement of credit hire claims. However, we also noted that the large discrepancy between GTA and non-GTA claims was explained in part by many claims which were initially submitted under the GTA falling out of this system when they were not settled within 90 days (see paragraph 66). As these tended to be the claims which were most likely to be subject to dispute, they often required substantial cost in reaching settlement.

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[16] Accident Exchange told us that this was a rough estimate based on the number of claims settled 'in-house' and the number of people employed exclusively in the settlement of claims. It excluded, for example, the time spent by external solicitors in settling claims.

76. Ai Claims Solutions told us that the GTA facilitated a collaborative negotiation process and the GTA settlement guidelines were beneficial in providing higher industry standards, better relationships between CMCs and insurers, and fewer frictional exchanges. Ai Claims Solutions told us that a claim process not under the GTA tended to be more combative. Accident Exchange told us that claims settled outside of the GTA generally involved additional costs (such as legal costs which were not usually fully recoverable) and took longer to settle, with cash flow consequences.

77. We note that the frictional costs incurred by CMCs/CHCs are to some extent offset by *(a)* late payment penalties paid by the fault insurer to the CMC/CHC in respect of GTA claims not settled within 30 days of the claim being submitted by the CMC/CHC to the fault insurer (as set out in the GTA); and *(b)* the reimbursement of legal fees by the fault insurer in relation to litigated credit hire claims which the CMC/CHC wins.[17] Both these forms of offsetting income represent frictional costs for fault insurers so, in our calculations, we have sought to ensure that they are not double counted.

78. Table 12 sets out the extent of this offsetting income for CMCs/CHCs. In 2012, late payment penalties amounted to between [✂] and [✂] per cent of the frictional costs incurred by CMCs/CHCs.

[17] The GTA requires that insurers settle credit hire claims within 30 days of a claim being submitted to it for payment. Failure to settle the claim within this period results in a late payment penalty of 12.5 per cent of the amount invoiced for claims settled between 30 and 60 days, and 20 per cent of the amount invoiced for claims settled between 60 and 90 days. The CMC/CHC can pursue payment outside the terms of the GTA for claims not settled within 90 days, ie through litigation.

TABLE 12 **Offsetting income received by CMCs/CHCs, 2012**

| *CMC/CHC* | *Annual income* | | *Income per claim* | | *Income as proportion of frictional costs* | |
|---|---|---|---|---|---|---|
| | *Late payment penalties £* | *Reimbursement of legal fees £* | *Late payment penalties £* | *Reimburse-ment of legal fees £* | *Late payment penalties %* | *Reimburse-ment of legal fees %* |
| Accident Exchange* | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| ACM† | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| ClaimFast | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Crash Services‡ | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |

*Source:* CMCs/CHCs.

*Accident Exchange's offsetting income relates to both credit hire and credit repair claims.
†ACM [✂].
‡Crash Services does not subscribe to the GTA and therefore is not entitled to late payment penalties under the GTA.

79. Table 13 sets out the frictional costs incurred by CMCs/CHCs net of offsetting income. It shows net frictional costs of £[✂] to £[✂] per credit hire claim, representing, on average, between [✂] and [✂] per cent of the average credit hire bill issued by a CMC/CHC to the fault insurer.

TABLE 13 **Net frictional costs incurred by CMCs/CHCs (net of offsetting income), 2012**

| *CMC/CHC* | *Annual frictional costs £* | *Annual offsetting income £* | *Net frictional costs £* | *Net frictional costs per claim £* | *Net frictional costs as a proportion of average credit hire bill %* |
|---|---|---|---|---|---|
| Accident Exchange* | [✂] | [✂] | [✂] | [✂] | [✂] |
| ACM† | [✂] | [✂] | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] | [✂] | [✂] |
| ClaimFast | [✂] | [✂] | [✂] | [✂] | [✂] |
| Crash Services‡ | [✂] | [✂] | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | | | | | 5 |
| Unweighted average excl [✂]§ | | | | | 4 |

*Source:* CC analysis.

*Accident Exchange's offsetting income relates to both credit hire and credit repair claims.
†ACM [✂].
‡Crash Services does not subscribe to the GTA and therefore is not entitled to late payment penalties under the GTA.
§[✂] offsetting income appears to be higher than its frictional costs. Therefore, we have excluded this when calculating the average frictional costs as a proportion of the average credit hire bill.

*Frictional costs incurred by fault insurers*

80. A fault insurer incurs frictional costs in relation to the verification, negotiation and settlement of credit hire claims. These costs include:

*(a)* administrative costs to verify and negotiate credit hire claims;

*(b)* costs relating to the establishment and maintenance of mitigation strategies to reduce the cost of credit hire claims (eg non-fault party capture and bilateral agreements); and

*(c)* costs of challenging credit hire claims, including litigation.

81. Table 14 shows the frictional costs incurred by the ten large insurers in our sample. The table suggests that a fault insurer incurs on average £[✂] to £[✂] of frictional costs per claim in verifying, negotiating, challenging (where necessary) and settling credit hire claims.

TABLE 14 **Frictional costs incurred by insurers, 2012**

| *Insurer* | *GTA claims* | | *Non-GTA claims* | | *All claims* | | |
|---|---|---|---|---|---|---|---|
| | *Annual costs £* | *Average costs per claim £* | *Annual costs £* | *Average costs per claim £* | *Annual costs £* | *Average costs per claim £* | *Frictional costs as a proportion of average credit hire bill %* |
| Admiral* | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Ageas Insurance | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Aviva | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| AXA | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| CISGIL | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| DLG† | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| esure | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| LV= | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| RSA | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Zurich | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | | | | | | | 10 |

*Source:* Insurers.

*Admiral's frictional costs include those incurred in relation to credit repair as well as credit hire. However, Admiral told us that it believed the frictional costs associated with credit repair would be significantly lower than those associated with credit hire due to fewer areas of contention relating to credit repair.
†DLG was unable to provide the relevant data, as it does not separately identify its frictional costs from its overall operational costs.

82. Nine of the ten insurers in our sample were able to provide us with an estimate of their overall frictional costs. However, there was significant variation in these estimates, with these costs representing between [✂] and [✂] per cent of the average

credit hire bill. It appeared to us that, as for CMCs/CHCs (see paragraph 72), this reflected the difficulty for insurers to distinguish frictional costs from their general claims management costs. For example, CISGIL told us that it could not quantify the costs it incurred in setting up and maintaining bilateral and third party capture agreements, as these activities involved numerous CISGIL staff, who spent only a small amount of their time doing these things and the associated costs were therefore absorbed as part of their roles.

83. In Appendix C we present an analysis of the different cost elements which are included within frictional costs for insurers. Administrative costs, in particular the cost of employing claims handlers to manage non-fault claims, and the payment of late payment penalties in relation to GTA credit hire claims are the largest elements of the frictional costs incurred by insurers.

84. Six of the ten insurers in our sample ([✂]) were able to provide a breakdown of their frictional costs between GTA and non-GTA credit hire claims, but only two were able to estimate a cost per claim. According to the evidence from these two insurers, frictional costs incurred in relation to non-GTA claims were higher than those incurred in relation to GTA claims for one insurer and they were almost identical between the two categories of claims for the other insurer.

85. Six of the ten insurers in our sample (Admiral, Ageas Insurance, Aviva, CISGIL, DLG and esure) told us that the level of disputes tended to be higher for non-GTA claims than for GTA claims.[18] For example, Aviva told us that it took about [✂] to handle a non-GTA claim than a GTA claim. CISGIL told us that CMCs/CHCs which did not subscribe to the GTA were more difficult to negotiate with and usually presented

[18] Of the remaining four insurers, AXA does not subscribe to the GTA, RSA told us that it was unable to compare the level of disputes in GTA and non-GTA cases, and both LV= and Zurich told us that subscription to the GTA did not affect the level of disputes they experienced with CMCs/CHCs.

higher credit hire claims (CISGIL’s experience was that the daily rates charged by non-GTA subscribing CMCs/CHCs were typically [✂] per cent higher than the maximum GTA daily hire rates). Insurers told us that the lack of any agreed protocols in non-GTA credit hire claims gave rise to more frequent disputes, which were harder to resolve and often resulted in litigation. CISGIL told us that, in 2012, [✂] per cent of its credit hire claims were outside of the GTA, but these claims accounted for [✂] per cent of its litigation costs.

86. Despite the significant frictional costs incurred by fault insurers, it appears to us that, overall, they achieve significant costs savings from challenging credit hire bills. On this issue:

- *(a)* Admiral told us that it saved costs in [✂] per cent of credit hire claims settled in 2012 and the average saving was £[✂] per claim.
- *(b)* Ageas Insurance told us that it saved around [✂] per cent on all credit hire bills in 2012, which equated to approximately £[✂] million.
- *(c)* CISGIL told us that it saved about £[✂] million in 2012 as a result of challenging credit hire bills.
- *(d)* Zurich told us that it achieved savings of £[✂] million against credit hire claims in 2012 through challenging bills (£[✂] million against GTA claims and £[✂] million against non-GTA claims).

87. Table 15 compares the total credit hire bills received by six of the ten insurers in our sample ([✂]) and the costs paid out in relation to these bills.

TABLE 15 **Credit hire bills received and costs paid out by insurers, 2012**

| | | *GTA claims* | | | *Non-GTA claims* | | |
|---|---|---|---|---|---|---|---|
| *Vehicle type* | *Example car* | *Total value of credit hire bills received £* | *Total credit hire costs paid out £* | *Difference %* | *Total value of credit hire bills received £* | *Total credit hire costs paid out £* | *Difference %* |
| [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| [✄] | [✄] | [✄] | [✄] | [✄] | [✄] | [✄] | [✄] |
| Total | | 104,873,135 | 92,464,351 | 12 | 22,688,663 | 13,762,735 | 39 |

*Source:* Insurers.

88. Table 15 shows that the six insurers saved, on average, 12 per cent against credit hire claims within the GTA through challenging the bills they received, and 39 per cent against non-GTA claims. It appears to us that the significantly lower savings made against GTA claims compared with non-GTA claims suggests that:

*(a)* the GTA is effective to some extent in providing a framework for the efficient negotiation and settlement of credit hire claims, such that fewer disputes arise; and/or

*(b)* there is significant friction in non-GTA claims, in part because this category includes claims which began under the GTA but fell out of that system.

89. We note that the cost savings to insurers through challenging bills are partially offset by the payments made by insurers to CMCs/CHCs of late payment penalties under the GTA. For example, RSA told us that it achieved an average saving of [✄] per cent of the total credit hire bill through challenging the bill, but incurred an average late payment penalty of [✄] per cent under the terms of the GTA.

90. We identified that insurers and CMCs had adopted some mitigation strategies aimed at reducing frictional costs, which are:

*(a)* the GTA (as already discussed to some extent); and

*(b)* bilateral agreements between insurers and CMCs/CHCs.

We discuss each in turn. We note that insurers also use other strategies to avoid frictional costs, eg seeking to capture the non-fault claim when they are the fault insurer and establishing bilateral agreements with other insurers, as previously discussed (see paragraphs 32 to 40).

- *The GTA*

91. The CHO told us that the GTA helped control the rules of engagement between subscribing insurers and CMCs/CHCs, and that customers benefited from a less acrimonious environment as a consequence (eg in avoiding having to attend court). The overriding principle of the GTA was that whoever was first to a customer and obtained their agreement should provide the service and no other subscriber should seek to intervene. 'First to a customer' was defined as the receipt and acceptance by the customer of a suitable offer which they could understand. The GTA also applied pre-agreed administrative processes and pre-agreed daily hire rates.[19]

92. It appears to us that the GTA plays an important role in reducing the level of disputes (and therefore frictional costs) between insurers and CMCs/CHCs (see paragraphs 70 to 89). Frictional costs incurred by insurers and CMCs/CHCs in relation to claims settled under the GTA are lower[20] than those in relation to claims settled outside of the GTA (see Tables 11 and 14).

93. However, the GTA has not eliminated friction. For example, Accident Exchange told us that, in 2012, it incurred administrative costs of around £[✂] million and litigation costs of around £[✂] million relating to the management and settlement of non-fault claims. It estimated that it could save around [✂] per cent of these administrative costs and around [✂] per cent of these litigation costs if fault insurers settled claims more efficiently. [✂] also told us that simplification of the legal standing of credit hire could facilitate the removal of frictional costs arising from the current adversarial relationship between insurers and CMCs/CHCs. It estimated that this could save it up

[19] The GTA is intended to apply to situations where a CMC/CHC feels the non-fault customer has the prospect of full recovery against the fault insurer and, in such cases, all subscribers are required to follow the GTA. In all other cases (ie where full recovery is not anticipated), subscribers may elect to follow the same principles, provided that they comply with the spirit and terms of the GTA, including by applying the relevant settlement rates.
[20] Though we acknowledge the limited sample for which we have data split on that basis.

to £[✂] million a year on administrative and litigation costs, depending on the extent of such reforms.

94. We note that it is the continuing presence of frictional costs which explains the presence of other mitigation strategies.

- *Insurer and CMC/CHC bilateral agreements*

95. In an attempt to mitigate the frictional costs incurred in the provision of credit hire TRV services, some CMCs/CHCs and insurers have established bilateral agreements. These agreements are typically in the spirit of the GTA but outside the GTA, specifying the terms of credit hire, including the daily hire rate, and the claims management and settlement process. Six of the nine CMCs/CHCs in our sample ([✂]) have such agreements or protocols in place. For example:

*(a)* Accident Exchange told us that it currently had a non-GTA protocol arrangement with [✂], whereby it accepted a fixed amount per claim, regardless of the recoverable value of each claim. This arrangement currently covered around [✂] per cent of Accident Exchange's credit hire revenue.

*(b)* Kindertons told us that it had 'specialised relationship' agreements with [✂],[✂] and [✂]. These agreements were inside the GTA but were in place to expedite payments, minimize frictional cost and reduce litigation. Kindertons said that it also had 'working benefit relationship' agreements with [✂],[✂] and [✂]. These agreements were outside the GTA and were created to remedy a past adverse relationship. Kindertons told us that, where it did not have a formal agreement in place with an insurer but the insurer's market share exceeded 1 per cent, it reviewed the insurer's outstanding aged debt on a monthly basis.

96. It appears to us that the benefits of these agreements to CMCs/CHCs are:

*(a)* fewer disputes and fewer claims requiring litigation, reducing frictional costs (eg Kindertons told us that, in 2012, only around [✂] per cent of its claims involving relationship insurers resulted in litigation, compared with around [✂] per cent of claims involving non-relationship insurers);

*(b)* faster settlement of claims (eg Kindertons told us that, in 2012, relationship insurers settled their invoices on average in [✂] days, whereas non-relationship insurers settled their invoices on average in [✂] days); and

*(c)* fewer resources required to comply with the obligations of the GTA and to pursue and recover claims.

97. Despite these benefits, Accident Exchange told us that [✂].

98. Six of the ten insurers in our sample ([✂]) have bilateral agreements with CMCs/CHCs. On this issue:

*(a)* AXA told us that, although the agreements took a number of months to set up, the work involved once the agreements were in force was minimal (ie the production of monthly management information to verify performance).

*(b)* Esure told us that it had [✂] agreements with CHCs: [✂]

99. It appears to us that the benefits of these agreements to insurers are:

*(a)* fewer disputes and fewer claims requiring litigation, resulting in reduced frictional costs;

*(b)* fewer resources required to manage non-fault TRV claims;

*(c)* discounted settlement rates (eg [✂]); and

*(d)* greater control and certainty over the cost of a non-fault TRV claim (eg Admiral told us that, in 2012, [✂] per cent of the credit hire claims it received under fixed fee arrangements [✂] were settled at the negotiated flat rate, compared with only [✂] per cent of claims under the GTA).

*Our assessment*

100. Our estimates suggest that net frictional costs incurred by a CMC/CHC represent, on average, between [✂] and [✂] per cent of the average credit hire bill issued; and frictional costs incurred by the fault insurer represent, on average, between [✂] and [✂] per cent of the average credit hire bill paid. However, these net frictional costs are difficult to quantify and not all insurers and CMCs were able to provide us with the required data. Moreover, we note that there is significant variance in the estimates. Therefore, we treat these calculations of averages with some caution.

101. Overall, it appears to us that the separation of cost liability and cost control gives rise to significant frictional costs for both the party which provides a TRV to a non-fault customer and the party which pays for it. The frictional costs incurred by CMCs/CHCs and fault insurers taken together amounts to between around £46 million and £186 million (based on a credit hire market of around £663 million and assuming that frictional costs are between 1 and 7 per cent of the average credit hire bill invoiced by CMCs/CHCs and between 6 and 21 per cent of the average credit hire bill received by fault insurers).[21] This view is supported by the considerable effort and expense incurred by both CMCs/CHCs and insurers in seeking to mitigate these costs (ie in the establishment of the GTA and in various other strategies).

### ***Bad debt provision***

102. Bad debts arise in relation to non-fault TRV service provision when:

*(a)* there is a dispute over a credit hire bill;

*(b)* subsequent evidence suggests that the non-fault customer was at fault; and/or

*(c)* the customer submits a fraudulent claim.

[21] The CHO website states that the UK credit hire industry was estimated to be worth approximately £663 million in 2011.

103. Under the terms of a credit hire TRV agreement, the customer is ultimately liable for the costs of the provision of TRV services should the CMC/CHC be unable to recover the costs from the fault insurer. However, CMCs/CHCs told us that they rarely sought to recover costs from non-fault customers.

*Extent of bad debt write-off*

104. The risk of non-recovery or only partial recovery of the costs incurred by CMCs/ CHCs in the provision of TRV services under credit hire agreements is reflected in the high level of debt write-offs recognized by CMCs/CHCs. Table 16 shows the credit hire debt write-offs for the nine CMCs/CHCs in our sample. The table shows that, in 2012, CMCs/CHCs wrote off between [✂] and [✂] per cent of their gross revenue, with an unweighted average write-off of 20 per cent.

TABLE 16 **Credit hire debt write-offs, 2012**

| *CMC/CHC* | *Write-offs £* | | | *Write-offs as proportion of gross revenue %* | | |
|---|---|---|---|---|---|---|
| | *GTA** | *Non-GTA* | *Total* | *GTA** | *Non-GTA* | *Total* |
| Accident Exchange | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| ACM† | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| ClaimFast | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Crash Services‡ | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Enterprise§ | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | 9,356,973 | 3,393,580 | 12,750,553 | 18 | 30 | 20 |

*Source:* CMCs/CHCs.

*We note that, in relation to claims settled under the GTA, the difference between the gross commercial value of a hire and the amount settled under the GTA's discounted rates is often the result of a settlement discount rather than a write-off.
†ACM does not provide credit hire services.
‡Crash Services does not subscribe to the GTA.
§Enterprise's credit hire activity is all under the GTA.

105. [✂] told us that write-offs were driven by the severe cash flow pressures on CMCs/CHCs, caused by lengthy settlement periods, which often required them to accept lower settlement payments than were justifiable.

106. Table 16 also shows that, in 2012, the level of write-offs was significantly higher for credit hire claims outside the GTA than for claims within the GTA, which suggests

that the GTA plays a significant role in providing a framework for the efficient negotiation and settlement of credit hire claims.

107. [✂] told us that the likelihood of full recovery from the fault insurer fell as the size of claim increased, as shown in Table 17.

TABLE 17 [✂] **claims recovery (last three years)**

| | *Value of claim (£)* | | | |
|---|---|---|---|---|
| | [✂] | [✂] | [✂] | [✂] |
| Cases where full recovery was made (%) | [✂] | [✂] | [✂] | [✂] |

*Source:* [✂].

108. Direct hire write-offs are less frequent than credit hire write-offs, as direct hire is usually arranged at pre-agreed rates with the party paying for it. For example, [✂] told us that, historically, it wrote off around [✂] to [✂] per cent of its non-credit hire revenue, and this was only if it failed to provide adequate services to the insurer or customer (eg relating to the delivery of the vehicle, the billing process or the hire duration).

109. Table 18 shows the proportion of full and partial write-offs recorded by the CMCs/ CHCs in our sample in relation to credit hire bills in 2012.

TABLE 18 **Full and partial credit hire write-offs, 2012**

| *CMC/CHC* | *Full write-offs* £ | *Partial write-offs* £ | *Total write-offs* £ | *Full write-offs as a proportion of total write-offs* % | *Partial write-offs as a proportion of total write-offs* % |
|---|---|---|---|---|---|
| Accident Exchange | [✂] | [✂] | [✂] | [✂] | [✂] |
| ACM† | [✂] | [✂] | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] | [✂] | [✂] |
| ClaimFast | [✂] | [✂] | [✂] | [✂] | [✂] |
| Crash Services‡ | [✂] | [✂] | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | 1,790,748 | 9,810,173 | 11,600,922 | 15 | 85 |

*Source:* CMCs/CHCs.

*We note that in relation to claims settled under the GTA, the difference between the gross commercial value of a hire and the amount settled under the GTA's discounted rates is often the result of a settlement discount rather than a write-off.
†ACM does not provide credit hire services.
‡Crash Services does not subscribe to the GTA.

110. The vast majority of debt written off by CMCs/CHCs in relation to credit hire TRV services is due to a partial write-off, ie a settlement discount being agreed with the fault insurer, rather than a full write-off, which only tends to occur where subsequent evidence suggests that the non-fault customer was actually at fault. Disputes in relation to the provision of the TRV (eg the customer's need for it, the class of vehicle, the hire duration, and the daily rate) are much more common than disputes in relation to liability for the accident. We note that [✂].

### *Change in the initial assessment of liability and fraud*

111. Table 19 shows that the termination of a credit hire claim due to a change in the initial assessment of liability (from non-fault to fault) only occurs, on average, in between [✂] and [✂] per cent of cases. This appears to be due to the significant time and resources spent by CMCs/CHCs in establishing liability.

TABLE 19 **Termination of credit hire claims due to a reassessment of liability, 2012**

| *CMC/CHC* | *Proportion of credit hires claims terminated due to a reassessment of liability %* | *Proportion of credit hires claims terminated due to fraud %* |
|---|---|---|
| Accident Exchange | [✂] | [✂] |
| ACM | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] |
| ClaimFast | [✂] | [✂] |
| Crash Services | [✂] | [✂] |
| Enterprise | [✂] | [✂] |
| Helphire | [✂] | [✂] |
| Kindertons | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] |
| Unweighted average | 1.73 | 0.37 |

*Source:* CMCs/CHCs.

112. Accident Exchange told us that, in cases where the customer's vehicle was not drivable as a result of an accident (so the customer required a TRV immediately), it might make an initial assessment of liability and agree to provide hire on that basis until further investigations had been undertaken. In cases where Accident Exchange subsequently changed its initial assessment, the hire might have to be terminated. Accident Exchange said that this was rare but, if it did happen, then it would bear the costs incurred to that point.

113. Kindertons told us that, in some circumstances, it provided a TRV on credit hire to a perceived non-fault customer for up to seven days at no charge while it tried to establish liability. It said that this was only offered if the customer's vehicle was not roadworthy and was provided as an enhanced service to its work providers. Kindertons said that the hire was accepted in [✂] per cent of cases.

114. [✂] told us that, if a CMC/CHC changed its initial assessment of liability, it could only recover its costs from the customer if the customer had deliberately misled it or made a fraudulent claim. It said that the costs of pursuing such customers and the likelihood of making any meaningful recovery meant that it would usually suffer the loss.

### *Cost of credit*

115. A CMC/CHC incurs a working capital cost in providing credit hire services, as it does not receive payment for the services it provides until subsequently.

116. The cost of credit incurred by CMCs/CHCs is a factor of both the cost of the service provided and the time taken to recover that cost from the fault insurer. CMCs/CHCs told us that this time was often significant. For example, Helphire told us that its debtor days were around [✂] days, whereas its typical credit period under a direct hire agreement was [✂] days. Ai Claims Solutions told us that, although it recovered over [✂] per cent of its invoices in full, it took on average [✂] days to receive payment.

### *Our assessment of the overcosting of credit hire*

117. In seeking to analyse the higher daily hire rate of credit hire compared with direct hire, we have looked at the underlying costs borne by providers under the two models. The two principal additional costs which arise in the provision of credit hire compared with direct hire are referral fees and frictional costs. Both these costs provide some evidence of overcosting.

118. Referral fees constitute a cost of acquiring business for a CMC/CHC. CMCs/CHCs appear to compete to be selected by insurers and brokers (and others) to provide services to their non-fault customers by, among other things, paying higher referral fees. In doing so, referral fees have the effect of enabling non-fault insurers and brokers to extract some of the profits generated by CMCs/CHCs in the provision of credit hire (and other services). Therefore, it appears to us that the level of referral fees may be an indication of the extent of the underlying profitability (ie prior to referral fees being paid) in credit hire (and other services). It appears to us that this profitability is likely to be a result of credit hire daily rates being, on average,

significantly higher than direct hire daily rates and credit hire durations being, on average, longer than direct hire durations (see paragraphs 46 to 54), although we also recognise that the provision of credit hire services involves some additional costs to be incurred compared with direct hire.

119. Frictional costs arise from the administration, management and settlement of non-fault claims and are generated by the fault insurer attempting to minimize the cost of claims passed on to it by a non-fault insurer or CMC/CHC, and by the non-fault insurer or CMC/CHC defending its claim. It appears to us that the frictional costs incurred by fault insurers and CMCs/CHCs taken together amount to around between £46 million and £186 million. The establishment of various mitigation strategies by both insurers and CMCs/CHCs, including the GTA and bilateral agreements, seek to reduce both the level of the claim (eg the daily hire rate and/or the hire duration) and the frictional costs associated with such claims.

120. Some of the other additional costs incurred in the provision of credit hire (eg bad debt provision and the cost of credit) reflect the inherent risk and the associated costs of the credit hire business model.

## Overprovision of credit hire

121. In this section, we consider whether there are differences between the TRV services which non-fault claimants receive and those to which they are entitled and desire. We consider the length of the credit hire duration and other services received alongside credit hire. We make comparison against direct hire, though we recognize that this is an imperfect comparator as there could be underprovision to customers who receive a TRV under direct hire (see the working paper ‘ToH 2: Underprovision of TRVs’).

### *Credit hire duration*

122. The credit hire duration, when multiplied with the daily rate, determines the cost of credit hire. It appears that, on average, the length of an average credit hire is 3.7 days longer than the length of an average direct hire (see paragraph 49). To the extent this represents overprovison, it would result in overcosting, ie the cost of a TRV to a non-fault claimant being higher than it would be if there were not the separation of cost liability and cost control. In this section, we consider the extent to which the longer average credit hire duration compared with the average direct hire duration reflects overprovision.

#### *Repair duration*

123. Hire duration is largely determined by repair duration.[22] Table 20 sets out the average credit hire durations for the nine CMCs/CHCs in our sample for three scenarios: *(a)* where a vehicle is repairable and drivable; *(b)* where a vehicle is repairable but not drivable; and *(c)* where a vehicle is not repairable (ie a write-off). The repair duration, and therefore the credit hire duration, is longer if a vehicle is not drivable, as *(a)* the customer is likely to require a TRV immediately (often before their vehicle is recovered and repairs have commenced); and *(b)* non-drivable vehicles typically have more significant damage than drivable vehicles and therefore require more extensive repair. Credit hire durations are longest where the vehicle is a write-off, as a pre-accident valuation needs to be agreed and, under the GTA, the non-fault customer is entitled to a TRV for up to seven days following receipt of the settlement payment.

[22] Repair duration is the length of time taken to repair a vehicle. The repair duration commences on the booking-in date and concludes when the vehicle is returned to the customer. This is sometimes referred to as the ‘key-to-key’ period.

TABLE 20 **Average credit hire durations for repairable vehicles and write-offs, 2012**

| *CMC/CHC* | *Average credit hire duration (days)* | | |
|---|---|---|---|
| | *Drivable vehicle* | *Non-drivable vehicle* | *Write-off* |
| Accident Exchange | [✂] | [✂] | [✂] |
| ACM* | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] |
| ClaimFast | [✂] | [✂] | [✂] |
| Crash Services | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] |
| Unweighted average | 10.3 | 19.8 | 29.8 |

*Source:* CMCs/CHCs.

*ACM does not provide credit hire or direct hire services.
†Enterprise told us that its average credit hire duration for non-drivable vehicles was likely to be lower than shown, as Enterprise's system recorded the drivability of the vehicle at the time of the notification of the claim, and some repairable non-drivable claims became write-offs during the claim process.

124. Our survey of non-fault claimants found that 73 per cent of respondents who received a TRV had the use of it for seven days or more, and 22 per cent had it for three weeks or more (see the working paper 'Survey report'). This survey found that 41 per cent of respondents with a high level of damage to their vehicle received a TRV for three weeks or more compared with only 8 per cent of respondents with a low level of damage. This supports the view that credit hire durations are typically longer where the vehicle being repaired has sustained more damage.

125. We asked repairers whether their processes for conducting repairs varied according to the work provider or the fault status of the customer. With the exception of [✂], all the repairers in our sample told us that they did not differentiate between fault, non-fault and captured claims in how they conducted repairs, including in the time taken to complete the repair. They told us that usually they did not know the fault status of the customer. [✂] told us that it managed fault repairs to completion as quickly as possible but non-fault repairs were not as fast, as it was in the interest of the non-fault insurer or CMC/CHC to delay repair authorization and vehicle inspection, in order to extend the hire period.

126. In response to our survey of non-fault claimants:

*(a)* A higher proportion of claimants who received a TRV said that the repair of their vehicle took longer than initially advised by the repairer than claimants who did not receive a TRV (24 and 17 per cent respectively).

*(b)* The average repair duration was longer for non-fault claims than for captured non-fault claims (21 days and 15 days respectively for vehicles which suffered a high level of damage, and 9 days and 7 days respectively for vehicles which suffered a low level of damage).

This evidence is consistent with the view of [✄] that non-fault repairs are not completed as quickly as fault repairs (or captured non-fault repairs) in order to extend the hire period (see paragraph 125).

127. All of the ten large insurers in our sample told us that a CMC/CHC could employ a number of methods in order to extend the credit hire period, including:

*(a)* Arranging for the collection and delivery of a roadworthy vehicle to the repairer prior to either the authorization of the repair or the repairer being ready to perform the repair (eg on a Friday afternoon). However, [✄] told us that the practice of booking in non-fault repairs on a Friday was not now as common as it used to be. Table 21 presents the proportion of hire commencements by day of the week for the nine CMCs/CHCs in our sample and shows that, on average, 15 per cent of credit hires and direct hires commence on a Friday. This evidence supports the view that disproportionately booking in vehicles for repair on a Friday to extend a credit hire is not common.

TABLE 21 **Hire commencement, 2012**

| | Proportion of hires that commenced on each day (%) | | | | | | |
|---|---|---|---|---|---|---|---|
| | *Monday* | *Tuesday* | *Wednesday* | *Thursday* | *Friday* | *Saturday* | *Sunday* |
| *Credit hire* | | | | | | | |
| Accident Exchange | | | | | | | |
| ACM* | | | | | | | |
| Ai Claims Solutions | | | | | | | |
| ClaimFast | | | | | | | |
| Crash Services | | | | | | | |
| Enterprise | | | | | | | |
| Helphire | | | | | | | |
| Kindertons | | | | | | | |
| WNS Assistance | | | | | | | |
| Unweighted average | 23 | 20 | 19 | 17 | 15 | 6 | 0 |
| *Direct hire*† | | | | | | | |
| Accident Exchange | | | | | | | |
| ACM* | | | | | | | |
| Ai Claims Solutions | | | | | | | |
| ClaimFast‡ | | | | | | | |
| Crash Services§ | | | | | | | |
| Enterprise | | | | | | | |
| Helphire | | | | | | | |
| Kindertons | | | | | | | |
| WNS Assistance | | | | | | | |
| Unweighted average | 22 | 20 | 19 | 17 | 15 | 7 | 0 |

*Source:* CMCs/CHCs.

*ACM does not provide credit hire or direct hire services.
†The direct hire data may include fault claims.
‡ClaimFast does not provide direct hire services, except as an outsourced function for [✂].
§Crash Services does not provide direct hire services.

*(b)* Delaying the process for the authorization and completion of the repair, eg by delaying the appointment of an engineer to inspect the vehicle, delaying the submission of evidence to the fault party or sending it to the wrong address, and not monitoring the repair closely or resolving delays. [✂][23] told us that CHCs/CMCs could delay the start of the repair by instructing the engineer to wait up to five days before inspecting the vehicle, and could delay the authorization of the repair once the engineer had provided a repair cost estimate.

*(c)* Delaying the return of a repaired vehicle to the customer.

*(d)* Denying the fault insurer access to the vehicle.

*(e)* Failing to monitor expeditiously and progress total loss claims.

128. The insurers in our sample told us that they monitored closely the hire and repair period (for repairable vehicles) or total loss settlement process (for write-offs) by:

[23] [✂]

*(a)* verifying with the repairer and/or non-fault insurer the date on which the non-fault customer lost use of the vehicle;

*(b)* monitoring the progress of the repair against the estimated repair period;

*(c)* regularly communicating with the CMC/CHC in relation to the repair; and

*(d)* validating parts delays with the repairer and parts suppliers.

129. Five of the nine CMCs/CHCs in our sample ([✂]) told us that they could not influence the credit hire period, as the key determinant of the hire duration was the repair duration (if the vehicle was repairable) or the time taken to remit the settlement payment to the non-fault customer (if the vehicle was a total loss). They added that the commencement and termination of hire periods is governed by the GTA (eg the GTA states that the vehicle requiring repair should be inspected and authorized for repair on day 1 of the hire period, repairs should commence on day 2 and the hire period must end not later than 24 hours after repairs to the vehicle have been completed).

130. Two CMCs/CHCs told us how they tried actively to minimize credit hire periods:

*(a)* [✂] told us that where a customer’s vehicle was not roadworthy, it would provide a TRV immediately (subject to the customer meeting the relevant criteria); and, where a customer’s vehicle was roadworthy, it would look to provide a TRV from the date the vehicle was booked in for repairs. All scheduling of repairs was undertaken by the repairers. Where [✂] provided credit repair through its own repairer network, the selection of the repairer was based on geographical location and performance but, if the selected repairer was too busy, an alternative repairer was selected. [✂] said that it liaised with the repairer and/or engineer to ensure the repair process was completed as quickly as possible, and it informed both the customer and the fault insurer of progress.

*(b)* [✂].

131. The nine CMCs/CHCs in our sample also mentioned the following as influencing the length of the repair period:

*(a)* the extent of the damage to the vehicle;

*(b)* parts delays;

*(c)* the acceptance of liability by the fault insurer (as a failure to accept liability could lengthen the hire period by delaying the commencement of repairs); and

*(d)* the speed with which repairs were authorized or the claim settled (where the vehicle was a write-off) by the fault insurer.

*Role of the GTA*

132. The length of the credit hire duration is affected by whether the claim is handled under the GTA. Table 22 sets out the average credit hire durations for GTA and non-GTA claims for four of the ten large insurers in our sample ([✂]) and seven of the nine CMCs/CHCs in our sample ([✂]). The average duration of a non-GTA credit hire claim is almost three times the average duration of a GTA credit hire claim when the claim has been referred to the CMC/CHC by an insurer. However, looking at credit hire services provided by CMCs/CHCs to all work providers, we note that the average hire duration is actually slightly lower for non-GTA claims than for GTA claims.

TABLE 22 **Average credit hire durations for GTA and non-GTA claims, 2012**

| *Vehicle type* | *Example car* | *GTA claims* | | | *Non-GTA claims* | | |
|---|---|---|---|---|---|---|---|
| | | *Hires* | *Hire days* | *Average hire duration (days)* | *Hires* | *Hire days* | *Average hire duration (days)* |
| *Credit hire services provided by CMC/CHC upon referral from insurers* | | | | | | | |
| Standard | Peugeot 107 | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| MPV | Vauxhall Meriva | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| 4x4 | Toyota RAV4 2.0 | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Prestige | BMW 116 1.6 | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Sports | Mini Cooper 1.6 | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Total | | 71,442 | 1,173,343 | 16.4 | 4,911 | 215,068 | 43.8 |
| *Credit hire services provided by CMC/CHC to all work providers* | | | | | | | |
| Standard | Peugeot 107 | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| MPV | Vauxhall Meriva | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| 4x4 | Toyota RAV4 2.0 | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Prestige | BMW 116 1.6 | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Sports | Mini Cooper 1.6 | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Total | | 258,985 | 4,243,547 | 16.4 | 44,918 | 705,186 | 15.7 |

*Source:* Insurers and CMCs/CHCS.

133. CISGIL told us that, where a CMC/CHC was operating under the GTA, it was able to challenge excessive credit hire lengths wherever the CMC/CHC had failed to comply with its obligations under the GTA but, where a CMC/CHC was operating outside the GTA, challenging excessive credit hire lengths could be more difficult.

## *Our assessment*

134. Credit hire durations are on average 3.7 days longer than direct hire durations, which might indicate the provision of TRV services under credit hire for an unnecessarily long period. However, hire duration is largely determined by repair duration and it is not clear from the evidence we have seen so far that non-fault repair durations are longer when a non-fault claimant is provided with TRV services under credit hire than under direct hire. Although there is a general consensus among repairers that there is no difference in their treatment of fault, captured non-fault and non-fault repairs, CMCs/CHCs have an incentive to extend hire durations (so long as they remain recoverable) and have some ability to do so, in particular through their influence over the repair process. On the other hand, insurers are able to monitor hire durations and

challenge credit hire claims (in particular claims within the GTA, where hire durations are governed by clear guidelines).

### *Additional services*

135. In this section we consider various aspects of ‘quality’ relating to the provision of TRVs, under three headings:

*(a)* type of TRV;

*(b)* services and add-ons provided with a TRV; and

*(c)* other aspects of quality relating to TRV services.

#### *Type of TRV*

136. In practice, a non-fault claimant is usually provided with a like-for-like TRV for as long as is reasonably necessary, subject to their duty to mitigate their loss with consideration to their need (see paragraph 18).

137. Sometimes non-fault claimants receive a TRV of a higher class than their own vehicle (ie an upgrade) at no extra cost due to the unavailability of a like-for-like TRV. In these cases, the CMC/CHC only recovers from the fault insurer the hire charges applicable to the class of the customer’s own vehicle. Table 23 shows the proportion of TRV upgrades provided by the nine CMCs/CHCs in our sample to their credit hire and direct hire customers in 2012.

TABLE 23 **Provision of TRV upgrades, 2012**

| *CMC/CHC* | *Proportion of credit hire customers provided with free upgrades* *%* | *Proportion of direct hire customers provided with free upgrades* *%** |
|---|---|---|
| Accident Exchange | [✂] | [✂] |
| ACM† | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] |
| ClaimFast‡ | [✂] | [✂] |
| Crash Services§ | [✂] | [✂] |
| Enterprise | [✂] | [✂] |
| Helphire | [✂] | [✂] |
| Kindertons | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] |
| Unweighted average | 17 | 10 |

*Source:* CMCs/CHCs.

*The direct hire data may include fault claims.
†ACM does not provide credit hire or direct hire services.
‡ClaimFast does not provide direct hire services, except as an outsourced function for [✂].
§[✂] does not record the provision of upgrades to credit hire customers (as they are infrequent) and does not provide direct hire services.

138. Table 23 shows that between [✂] and [✂] per cent of credit hire customers were provided with upgrades (at an average of 17 per cent), compared with between [✂] and [✂] per cent of direct hire customers (at an average of 10 per cent). However, for two of the three CMCs/CHCs where figures were provided for both credit hire and direct hire ([✂] and [✂]), there was a greater proportion of upgrades for direct hire customers than credit hire customers, suggesting that there are no clear conclusions from this evidence. Given that upgrades are the result of operational issues and do not increase the bill to the fault insurer, we have not analysed this practice further.

139. Our survey of non-fault claimants found that 17 per cent of respondents who received a TRV claimed that the vehicle provided exceeded their needs. The main reasons given were that, compared with their own vehicle, the TRV was a better make or model, it was newer, it was bigger, and/or it had a more powerful engine (see the working paper ‘Survey report’). However, it is difficult to assess to what extent this is a result of some customers receiving upgrades (17 per cent on average (see Table 23)) and/or to what extent it might represent the overprovision of credit hire TRV services.

*Review of insurer and CMC/CHC electronic call records*

140. We reviewed a sample of electronic call records provided by the ten large insurers in our sample and the nine CMCs/CHCs in our sample where a TRV was provided in order to assess whether there was any evidence of differences in the level of TRV services between direct hire services and credit hire services. We were aware that these call records reflected only one interaction between the customer and the provider and there may have been other interactions.[24]

- *Review of insurer electronic call records*

141. Table 24 summarizes 11 insurer call records (one non-fault claim and ten captured non-fault claims) in each of which the non-fault customer was provided with a TRV.

TABLE 24 **Insurer electronic call records involving the provision of TRV services to a non-fault customer**

| *Insurer* | *Type of hire* | *Level of TRV provided* |
|---|---|---|
| *Non-fault claims* | | |
| [✂] | Credit hire | Like-for-like |
| *Captured non-fault claims* | | |
| [✂] | Direct hire | Like-for-like |
| [✂] | Direct hire | Not disclosed |
| [✂] | Direct hire | Like-for-like |
| [✂] | Direct hire | Lower class |
| [✂] | Direct hire | Lower class |
| [✂] | Direct hire | Lower class |
| [✂] | Direct hire | Like-for-like |
| [✂] | Direct hire | Not disclosed |
| [✂] | Direct hire | Like-for-like |
| [✂] | Direct hire | Like-for-like |

*Source:* Insurers.

142. The table shows that, of the 11 insurer calls resulting in the provision of a TRV to a non-fault customer that we have reviewed so far, only one related to the insurer's non-fault customer (rather than a captured non-fault customer). In this case, the customer was provided with a like-for-like TRV under credit hire. Although we do not draw any conclusions from one call, we found that, in this call, the claims handler did

[24] We note that an assessment of the customer's need for a TRV might have been carried out at a later stage in the process. Also, by focussing only on cases where a TRV was provided, we have not captured those cases where there was an assessment of the customer's need, which resulted in no TRV being provided.

not appear to assess whether the customer required a like-for-like TRV or whether a replacement vehicle of a lower class would have met their needs.

143. We have so far reviewed ten insurer calls where a captured non-fault customer was provided with a TRV under direct hire:

*(a)* In two cases, the type of TRV provided was not discussed between the insurer and the customer.

*(b)* In five cases, the captured non-fault customer was provided with a like-for-like TRV. In one of these cases, the customer demonstrated a genuine need for a like-for-like TRV but, in the remaining four cases, the claims handler did not appear to assess whether the customer required a like-for-like TRV or whether a TRV of a lower class would have met their needs. We note that, although a fault insurer has the incentive to minimize the cost of TRV services to a captured non-fault customer, if it offers a poor quality of service the customer may go to a CMC, which is likely to be more expensive for the fault insurer (due to higher daily rates and, possibly, a longer hire duration).

*(c)* In three cases, the captured non-fault customer was provided with a TRV of a lower class than their own vehicle. In these cases, the customer was encouraged to accept a lower class of TRV, as this appeared sufficient for their needs.

- *Review of CMC/CHC electronic call records*

144. Table 25 summarizes 11 CMC/CHC call records, in each of which the non-fault customer was provided with a TRV.

TABLE 25 **CMC/CHC electronic call records involving the provision of TRV services to a non-fault customer**

| *CMC/CHC* | *Type of hire* | *Level of TRV provided* |
|---|---|---|
| [✂] | Credit hire | Like-for-like |
| [✂] | Credit hire | Not disclosed |
| [✂] | Credit hire | Lower class |
| [✂] | Credit hire | Like-for-like |
| [✂] | Credit hire | Like-for-like |
| [✂] | Credit hire | Like-for-like* |
| [✂] | Credit hire | Like-for-like |
| [✂] | Credit hire | Like-for-like* |
| [✂] | Credit hire | Not disclosed |

| | | |
|---|---|---|
| [✂] | Credit hire | Like-for-like |
| [✂] | Credit hire | Not disclosed |

*Source:* CMCs/CHCs.

145. We have so far reviewed 11 CMC/CHC calls where a non-fault customer was provided with a TRV under credit hire:

*(a)* In three cases, the type of TRV provided was not discussed between the CMC/CHC and the customer.

*(b)* In seven cases, the non-fault customer was provided with a like-for-like TRV. In two of these cases, the customer demonstrated a genuine need for a like-for-like TRV. In the remaining five cases, the claims handler did not appear to assess whether the customer required a like-for-like TRV or whether a TRV of a lower class would have met their needs. This may indicate some overprovision of TRV services as, for some of these customers, a lower class of vehicle might have been sufficient to meet their needs.

*(c)* In one case, the non-fault customer was provided with a TRV of a lower class than their own vehicle. In this case, the customer was encouraged to accept a lower class of TRV, as this appeared sufficient for their needs.

- *Our assessment*

146. Given that determining the level of TRV service which will meet a claimant's tort law entitlement involves an assessment of the specific facts of a case,[25] our particular interest in listening to a sample calls was the approach taken by the claim handler (captured non-fault, non-fault or CMC/CHC) to assess the claimant's needs (ie the kinds of enquiries made). We recognise that claims handlers process a large volume of claims, and seek to do so efficiently, in order to ensure non-fault claimants are not underprovided in their need for a TRV.

[25] The non-fault driver is entitled to recover the reasonable costs of car hire provided the reasonable need for an alternative vehicle can be established.

147. Overall, we have so far reviewed 12 call records where a non-fault customer was provided with TRV services under a credit hire agreement and ten call records where a captured non-fault customer was provided with TRV services under a direct hire agreement.

148. Where the type of TRV to be provided to the customer was discussed between the call handler and the customer, the majority of customers received a like-for-like TRV, irrespective of whether the TRV was provided under a credit hire or direct hire agreement. However, in the small number of calls which we have reviewed so far, there was a greater likelihood of receiving a lower quality TRV if captured by the fault insurer (3 in 10 compared with 1 in 12). Also, around half of the non-fault claimants who received a TRV received a like-for-like TRV without having to explain why it was needed (6 in 12 of those handled by a CMC/CHC/non-fault insurer and 4 in 10 of those captured by the fault insurer).

149. Given the small number of calls which we have listened to so far, we treat this evidence with caution. We intend to listen to more such calls.

*Services and add-ons provided with a TRV*

150. Credit hire agreements sometimes include additional services for non-fault customers (over and above the provision of TRV on credit), which are not typically provided with a direct hire TRV. In this section we consider the following:

*(a)* collision damage waiver;

*(b)* ATE insurance; and

*(c)* other additional services.

151. Credit hire customers are not usually charged for these additional services, though they represent costs for the CMC/CHC, which are funded by the higher daily hire rate of credit hire compared with direct hire (and, possibly, the longer hire duration).

152. We note that the provision of add-ons, such as satellite navigation systems and child car seats, and the provision of TRVs to non-standard drivers are treated similarly under credit hire and direct hire. These items/services are charged on top of the daily rate. We have seen no evidence to suggest that there is any overcosting or over-provision in relation to these items and therefore we do not consider them further.

*Collision damage waiver*

153. Both credit hire and direct hire non-fault customers are provided with a comprehensively-insured TRV. Under credit hire, there is typically an accidental damage excess of £50 as required by the GTA.[26]

154. Table 26 shows the average cost of this comprehensive insurance for the nine CMCs/CHCs in our sample.

TABLE 26 **Cost of insurance for credit hire TRVs**

| *CMC/CHC* | *Annual cost £* | *Cost per TRV £* |
|---|---|---|
| Accident Exchange* | [✂] | [✂] |
| ACM† | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] |
| ClaimFast | [✂] | [✂] |
| Crash Services‡ | [✂] | [✂] |
| Enterprise | [✂] | [✂] |
| Helphire | [✂] | [✂] |
| Kindertons | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] |
| Unweighted average | 2,242,165 | 49 |

*Source:* CMCs/CHCs.

*Accident Exchange's insurance costs include the costs of repairing any damage caused to their hire vehicles.
†ACM does not provide credit hire or direct hire services.
‡Crash Services operates in Northern Ireland, where a CMC/CHC cannot obtain insurance for hire vehicles. Therefore, Crash Services provides insurance cover under the customer's own policy and recovers the cost from the fault insurer.

[26] A CMC/CHC may charge an additional premium or require a customer to insure the TRV on his/her own PMI policy in rare circumstances (eg if the customer's occupation is excluded from standard cover or the vehicle is of a particularly high value).

155. In addition to comprehensive insurance, a CMC/CHC which subscribes to the GTA is required to include a collision damage waiver for all credit hire TRVs.[27] In contrast, direct hire customers have to pay an additional fee if they choose to take out this cover. ClaimFast told us that the cost of a collision damage waiver for retail car rental could be as much as £10 per day.

*ATE insurance*

156. Four of the nine CMCs/CHCs in our sample ([✂]) told us that they provided their credit hire customers with insurance in the event that they were unable to recover from the fault insurer the cost of the services provided by their CMC/CHC and other suppliers (eg engineers, investigators, lawyers and doctors) and were required to pursue the customer for settlement of the claim. The cost of this insurance was borne by the CMC/CHC:

*(a)* Accident Exchange told us that the cost of this insurance was small in the context of its overall costs (£[✂] per credit hire TRV).

*(b)* ClaimFast told us that the underlying cost of this service was around £[✂] per hire.

*(c)* [✂].

157. We understand that irrespective of whether a customer takes out ATE insurance, it is very rare for a CMC/CHC to pursue a customer for settlement of the costs of credit hire where the CMC/CHC cannot recover the costs from the fault insurer.

158. ATE insurance is not required under a direct hire agreement, as the customer does not enter into a credit agreement with the direct hire provider.

[27] A collision damage waiver requires the TRV services provider to waive its right to charge the customer for valid damages to the vehicle. Consequently, the services provider is ultimately responsible for any damage incurred to the TRV whilst in use by the customer.

*Other additional services*

- *Delivery and collection of the TRV*

159. CMCs/CHCs which subscribe to the GTA must provide delivery and collection of the TRV to and from the customer at no charge to the customer. CISGIL told us that CMCs/CHCs which did not subscribe to the GTA often made an additional charge to the customer for the delivery and collection of the TRV, which was passed to the fault insurer. AXA told us that a non-GTA subscribing CMC/CHC typically charged around £[✂] for the delivery and collection of the TRV. Zurich told us that the charge was in the region of £[✂] to £[✂] per day.

- *Indirect services*

160. Five of the nine CMCs/CHCs in our sample ([✂]) told us that they also provided uninsured loss recovery services to their credit hire customers at no additional cost. Helphire told us that it provided these services in around [✂] per cent of its credit hire cases. ClaimFast told us that it incurred a cost of £[✂] per claim to provide this service.

161. Under this service, the CMC/CHC pursues on behalf of its customer any uninsured losses which they might have suffered, such as:

*(a)* payment of the PMI policy excess;

*(b)* loss of earnings (if the customer could not work as a result of the accident);

*(c)* loss of personal effects (if any items were damaged in the accident);

*(d)* vehicle recovery charges (if incurred);

*(e)* vehicle storage charges (if incurred); and/or

*(f)* loss of value to their vehicle (ie post-repair compared with pre-accident (a diminution claim)).

*Other aspects of quality relating to TRV services*

162. The ten large insurers in our sample told us that they monitored the quality of the TRV services provided to their customers by their credit hire and direct hire providers by:

*(a)* monitoring customer complaints;

*(b)* reviewing performance against contracts or service level agreements;

*(c)* performing audits of the customer experience; and/or

*(d)* meeting regularly with providers to review performance.

163. For example, DLG told us that its direct hire and credit hire provider, [✂], must meet clear service standards, including in relation to quality and safety requirements and detailed performance measures and targets. DLG said that it monitored [✂] performance against these service levels and against customer metrics (eg satisfaction and complaint rates). They also had regular service reviews.

164. Table 27 presents customer complaint data for the ten insurers and nine CMCs/ CHCs in our samples, relating to direct hire and credit hire. The table shows that there is no significant variation in the level of customer complaints received by insurers and CMCs/CHCs in relation to credit hire and direct hire services, which suggests that there is no significant difference in customers' perceptions of these services. However, we note that this evidence is limited, as the majority of the parties do not record complaints relating to credit hire and direct hire separately and instead capture complaints data for all TRVs provided, including courtesy cars.

TABLE 27 **Credit hire and direct hire customer complaints, 2012^**

| *Insurer/CMC/CHC* | *Credit hire* | | *Direct hire** | |
|---|---|---|---|---|
| | *Number of complaints* | *Proportion of complaints in relation to total claims %* | *Number of complaints* | *Proportion of complaints in relation to total claims %* |
| *Insurer* | | | | |
| Admiral | [✂] | [✂] | [✂] | [✂] |
| Ageas Insurance | [✂] | [✂] | [✂] | [✂] |
| Aviva | [✂] | [✂] | [✂] | [✂] |
| AXA | [✂] | [✂] | [✂] | [✂] |
| CISGIL | [✂] | [✂] | [✂] | [✂] |
| DLG | [✂] | [✂] | [✂] | [✂] |
| esure | [✂] | [✂] | [✂] | [✂] |
| LV= | [✂] | [✂] | [✂] | [✂] |
| RSA | [✂] | [✂] | [✂] | [✂] |
| Zurich | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | 43 | 0.4 | 24 | 0.6 |
| *CMC/CHC* | | | | |
| Accident Exchange | [✂] | [✂] | [✂] | [✂] |
| ACM† | [✂] | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] | [✂] |
| ClaimFast‡ | [✂] | [✂] | [✂] | [✂] |
| Crash Services§ | [✂] | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | 33 | 0.1 | | 0.5 |
| Overall unweighted average | 38 | 0.3 | 24 | 0.5 |

*Source:* Insurers and CMCs/CHCs.

*The direct hire data may include fault claims.
†ACM does not provide credit hire or direct hire services.
‡ClaimFast does not provide direct hire services, except as an outsourced function for [✂].
§Crash Services does not provide direct hire services.
Note: A number of the parties questioned do not separately record customer complaints in relation to the provision of credit hire and direct hire services.

## *Our assessment of the overprovision of credit hire*

165. We have found that credit hire durations are on average 3.7 days longer than direct hire durations, which might indicate the provision of TRV services under credit hire for an unnecessarily long period. However, hire duration is largely determined by repair duration and it is not clear from the evidence that we have seen so far that non-fault repair durations are longer when a non-fault claimant is provided with TRV services under credit hire than under direct hire.

166. The non-fault driver is entitled to recover the reasonable costs of car hire, provided the reasonable need for an alternative vehicle can be established. In practice, this usually involves the provision of a like-for-like TRV for as long as is reasonably

necessary, subject to the non-fault driver's duty to mitigate their loss with consideration to their need. We have seen some evidence that non-fault customers are not always invited to consider whether their needs would be met with a lower class of TRV, whether handled by a CMC/CHC or the fault insurer (ie captured). However, given the small sample of cases which we have reviewed so far, we treat this evidence with some caution.

167. Some additional services are often provided by CMCs/CHCs to non-fault claimants under a credit hire agreement, which are beyond the level of services provided by a fault insurer to a captured non-fault claimant (eg the delivery and collection of the TRV, a collision damage waiver for the TRV, ATE insurance, and uninsured loss recovery services). However, we have seen no evidence to suggest that this difference in provision results in consumer harm.

# Routes to the provision of TRV services

TABLE 1 **Proportion of non-fault claimants who receive a credit hire TRV**

| *Insurer* | *Proportion of non-fault claimants who receive a credit hire TRV %* |
|---|---|
| Admiral | [✄] |
| Ageas Insurance | [✄] |
| Aviva | [✄] |
| AXA UK | [✄] |
| AXA Northern Ireland | [✄] |
| CISGIL | [✄] |
| DLG | [✄] |
| esure | [✄] |
| LV= | [✄] |
| RSA | [✄] |
| Zurich | [✄] |
| Unweighted average | 38 |

*Source:* Insurers.

*Insurers are only able to provide this data based on non-fault claims notified to them where they know that a credit hire vehicle has been received by the non-fault customer.

TABLE 2 **Proportion of captured non-fault claimants who receive a direct hire TRV**

| *Insurer* | *Proportion of captured non-fault claimants who receive a direct hire TRV %* |
|---|---|
| Admiral | [✄] |
| Ageas Insurance | [✄] |
| Aviva | [✄] |
| AXA UK | [✄] |
| AXA Northern Ireland | [✄] |
| CISGIL | [✄] |
| DLG | [✄] |
| esure | [✄] |
| LV= | [✄] |
| RSA | [✄] |
| Zurich | [✄] |
| Unweighted average | 35 |

*Source:* Insurers.

*CISGIL's figure relates to the proportion of all cases referred to its suppliers as suitable for capture and which resulted in a TRV being provided to the customer. The figure includes both the provision of direct hire TRVs and courtesy cars to non-fault customers.

APPENDIX B

## Frictional costs incurred by CMCs/CHCs, 2012 (split by GTA and non-GTA claims)

*£*

| *CMC/CHC* | *GTA claims* | | | | *Non-GTA claims* | | | |
|---|---|---|---|---|---|---|---|---|
| | *Admin costs* | *Litigation costs* | *Annual costs* | *Average costs per claim* | *Admin costs* | *Litigation costs* | *Annual costs* | *Average costs per claim* |
| Accident Exchange | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| ACM* | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| ClaimFast | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Crash Services† | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |

*Source:* CMCs/CHCs.

*ACM [✂].
†Crash Services [✂]

## Frictional costs incurred by CMCs/CHCs, 2012 (all claims)

| *CMC/CHC* | *Admin costs* £ | *Litigation costs* £ | *Annual costs* £ | *Average costs per claim* £ | *Average credit hire bill issued* £ | *Frictional costs as a proportion of average credit hire bill* % |
|---|---|---|---|---|---|---|
| Accident Exchange | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| ACM* | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Ai Claims Solutions | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| ClaimFast | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Crash Services† | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Enterprise | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Helphire | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Kindertons | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| WNS Assistance | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | | | | | | 10 |

*Source:* CMCs/CHCs.

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*ACM [✂]

†Crash Services [✂]

## Frictional costs incurred by insurers, 2012 (split by GTA and non-GTA claims)

| *Insurer* | *GTA claims* | | | | | *Non-GTA claims* | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | *Admin costs (£)* | *Mitigation costs (£)* | *Litigation costs (£)* | *Annual costs (£)* | *Average costs per claim (£)* | *Admin costs (£)* | *Mitigation costs (£)* | *Litigation costs (£)* | *Annual costs (£)* | *Average costs per claim (£)* |
| Admiral* | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Ageas Insurance | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Aviva | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| AXA | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| CISGIL | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| DLG† | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| esure | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| LV= | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| RSA | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Zurich | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |

*Source:* Insurers.

*Admiral's frictional costs include frictional costs incurred in relation to credit repair as well as credit hire. However, Admiral estimated that the frictional costs associated with credit repair would be significantly lower than those associated with credit hire due to fewer areas of contention relating to credit repair.
†DLG was unable to provide the relevant data, as it does not separately identify its frictional costs from its overall operational costs.

## Frictional costs incurred by insurers, 2012 (all claims)

| *Insurer* | *Admin costs £* | *Mitigation costs £* | *Litigation costs £* | *Annual costs £* | *Average costs per claim £* | *Average credit hire bill paid £* | *Frictional costs as a proportion of average credit hire bill %* |
|---|---|---|---|---|---|---|---|
| Admiral* | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Ageas Insurance | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Aviva | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| AXA | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| CISGIL | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| DLG† | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| esure | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| LV= | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| RSA | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Zurich | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] | [✂] |
| Unweighted average | | | | | | | 10 |

*Source:* Insurers.

*Admiral's frictional costs include frictional costs incurred in relation to credit repair as well as credit hire. However, Admiral estimated that the frictional costs associated with credit repair would be significantly lower than those associated with credit hire due to fewer areas of contention relating to credit repair.

†DLG was unable to provide the relevant data, as it does not separately identify its frictional costs from its overall operational costs.