
**COMPETITION COMMISSION MARKET INVESTIGATION INTO PRIVATE
MOTOR INSURANCE**

AXA RESPONSE TO ISSUES STATEMENT

NON-CONFIDENTIAL VERSION

AXA welcomes the opportunity to comment on the Competition Commission's ("**Commission**") Issues Statement of 12 December 2012. AXA has not commented on many of the issues raised by the Commission at this stage in the investigation. In this context, the lack of any express statement does not therefore indicate agreement or disagreement by AXA with the existence, or importance of, any issues contained within the Issues Statement. AXA looks forward to other opportunities to discuss the issues relevant to the private motor insurance sector, during the course of the Commission's investigation.

1. INTRODUCTION

- 1.1 In the UK and Ireland, AXA UK plc has a number of operating companies including AXA Wealth, AXA Insurance, AXA PPP healthcare, AXA Ireland and an independent general insurance distribution business, Bluefin.
- 1.2 AXA Direct & Partnerships and AXA Commercial Lines & Personal Intermediary are separate operating divisions of AXA Insurance UK plc. AXA Direct & Partnerships underwrites a range of products such as motor, home and travel insurance for personal customers. In relation to motor insurance, AXA Direct & Partnerships is present in the direct channel both through its own websites (www.axa.co.uk and www.axainsurance.com), but also through its 100%-online subsidiary Swiftcover Insurance Services Limited (www.swiftcover.com) (together "**AXA Direct**"), offering AXA's direct private motor insurance-branded products, AXA Motor and Swiftcover Motor.
- 1.3 AXA Commercial Lines & Personal Intermediary distributes home and private motor insurance distributed through brokers through its Personal Intermediary channel ("**AXA Personal Intermediary**").
- 1.4 AXA's Northern Ireland operations are currently run out of its subsidiary in the Republic of Ireland; AXA Insurance Limited ("**AXA Ireland**") in Dublin. AXA Ireland trades as AXA Northern Ireland and offers motor insurance in Northern Ireland through both EEA Freedom of Service and EEA Freedom of Establishment licences.

2. ISSUES STATEMENT: THEORY OF HARM 5

- 2.1 Although AXA is not addressing, at this stage, all of the topics raised by the Commission in its Issues Statement, AXA is particularly concerned about one aspect in relation to the Commission's theory of harm 5, harm arising from vertical relationships (vertical integration), and in particular, price comparison websites ("**PCWs**") requiring insurers and brokers to accept most favoured nation ("**MFN**") clauses. The remainder of this response will focus on this issue
- 2.2 AXA was disappointed to read that the Commission has decided not to consider the issue of MFN clauses between PCWs and insurers as part of its investigation, without giving the issue more in-depth consideration. AXA is of the view that this is a serious issue within the industry and that the Commission's approach shows a misunderstanding of the functioning and evolution of the market, in particular the importance of PCWs as a distribution channel. In addition, the issue is a complex one and should not be dismissed without a more detailed, evidence-based analysis.

- 2.3 The Commission states at paragraph 95 that "*we recognize that MFN clauses can have detrimental effects on competition*" and however dismisses these potential effects without further consideration "*in light of the benefits of MFN clauses and the offline alternatives available to consumers of PMI, and given the apparent competition in the supply of PMI*".

Importance of PCWs as a distribution channel

- 2.4 In particular, the Commission appears to dismiss the potential detrimental effects on competition (and consumers) partly as a result of other "offline alternatives" available to consumers.¹ As mentioned above, this assertion shows a misunderstanding of the market, which is perhaps unsurprising at this early stage of the investigation. In fact, PCWs play a vital and increasing role in an insurer's access to consumers. Buying online through a PCW is now the principal way of buying motor insurance in the UK. This is evidenced by the fact that whereas sale through PCWs represented around [confidential]% of AXA's private motor insurance sales five years ago, they now account for around [confidential]% of all direct sales and [confidential]% of all sales (excluding renewals). Research undertaken by Datamonitor in 2012 indicated that 77% of all customers visit PCWs as part of their research when buying PMI although only 23% actually purchased through the PCW. (Care should be exercised over this last figure as when "clicking through" from a PCW, consumers are directed onto a company's own website potentially resulting in consumers responding, incorrectly, that they purchased the product direct from the insurer's website.)
- 2.5 In addition, it is important to note that the PCW market is very concentrated with four players accounting for a very large proportion of private motor insurance sales.
- 2.6 Although it is true that some insurers have decided not to sell through PCWs (i.e. Direct Line and also Aviva), this tends to the case for insurers or brands that are already well established and not, for example, new entrants or smaller players. These players are also of course "online".
- 2.7 Therefore, although theoretically consumers do have the option to shop "offline", this happens increasingly rarely.
- 2.8 As a result, PCWs are in a position of relative power vis-à-vis those insurers that do not have a vertical relationship with any PCW.

Potential anti-competitive effects of MFNs

- 2.9 AXA believes that the Commission has not adequately considered the potential detrimental effects on competition of the MFN clauses. The Commission points to two possible detrimental effects in particular:
- Dampening of competition between PCW and online sales (para 91);
 - Dampening effect between PCWs, potentially leading to an increase in cost-per-acquisition fees ("CPA") (para 92).

¹ AXA notes that the Commission also assumes "apparent competition" in the supply of private motor insurance as a reason not to pursue this issue.

2.10 However, the Commission has not considered the following potential issues:

- the MFN clause may reduce the insurer's incentives to lower its own prices, by limiting its flexibility of pricing across its sales channels;
- a PCW may, in fact, not be able to provide special offers (by cutting its own margin or by asking an insurer to lower their price for particular risks) as a result of the network of MFNs an insurer may have with other PCWs, potentially leading to higher prices for consumers;
- the existence of MFN clauses is likely to increase the barriers to entry to new PCWs. This may result in an upwards increase of the CPAs, which may ultimately have an upwards effect on the price paid for insurance by consumers. In particular, this is likely to be the case in circumstances where there is a high level of concentration within the PCW sector (as currently exists), with only four main providers, and where these clauses are prevalent throughout the industry. AXA notes that this may also feed into the Commission's theory of harm 3: harm due to horizontal effects (market concentration).

2.11 As a result of the MFNs with the PCWs, consumers could therefore be paying a higher effective price for their insurance than would be the case in their absence.

3. CONCLUSION

3.1 AXA disagrees with the decision not to pursue the issue further at this very early stage of the investigation. AXA respectfully submits that the Commission has taken a somewhat superficial approach, which, if followed, will result in ignoring a feature of the markets which prevents, restricts or distorts competition and which may result in consumer detriment. In particular, the Commission states (at paragraph 3) that "*we have not reached any views or findings on*" the topics, although AXA believes that deciding not to pursue an issue with potential detrimental effects on competition (and consumers) seems contrary to this approach.

3.2 As mentioned by the Commission, MFNs are capable of having detrimental effects, as well as beneficial effects. In private motor insurance, PCWs are increasingly the dominant sales channel and the PCW market is very concentrated. AXA therefore believes that a more in-depth, evidence-based assessment is required to determine the complex issue of whether MFNs have a net positive or negative effect on consumers. For this reason, the issue of PCWs requiring insurers and brokers to accept MFN clauses merits further consideration by the Commission and should be included within the Commission's review going forward.