Private Motor Insurance – CC Market Investigation
esure's response to the CC's Statement of Issues

1. Executive summary

1.1 esure suggests that the CC should focus its market investigation on the features of the PMI industry identified in its Statement of Issues as Theory of Harm 1, particularly in relation to credit hire. It recognises that the CC has received a number of different views on the harm arising from these features and the appropriate remedies thereto, but esure considers these divergent responses to be driven by the differing incentives of the relevant stakeholders in the PMI industry. esure proposes relatively straightforward remedies to resolve this Theory of Harm (namely a ban on referral fees and the adoption of Judicial Guidance). Moreover, esure considers that the measures that have been adopted (or are to be adopted) to remedy consumer detriment arising out of personal injury claims may act as a suitable 'blueprint' for these remedies.

1.2 While esure considers that Theory of Harm 1 is the factor on which the CC ought to focus its market investigation, esure has also considered and responded to each of the other Theories of Harm in the CC's Statement of Issues. In summary:

- Theory of Harm 2: for the most part, esure does not consider this to be a plausible theory of harm. The main difference in incentives arises in relation to the receipt of referral fees, which would be removed pursuant to esure's proposals for Theory of Harm 1. Although esure does not consider the factors discussed by the CC in Theory of Harm 2 as likely to prevent, restrict or distort competition, to the extent that the CC is concerned about such prospects, esure considers that the FSA/FCA is the appropriate body to address any potential further concerns in this area.

- Theory of Harm 3: there are significant numbers of competitors in the PMI industry. This has been recognised by the OFT in a number of recent merger investigations into the non-life insurance sector. Barriers to switching between segments within the non-life insurance sector (including segments within the PMI sector) are low. esure does not consider that there are any horizontal issues in the PMI industry capable of giving rise of an adverse effect on competition; therefore, it does not consider Theory of Harm 3 to merit further investigation by the CC.

- Theory of Harm 4: the increased use of PCWs and the benefits to consumers offset any potential detriment to customers resulting from any differentiation between PMI policies. esure disagrees with the CC that insurers are likely to create obstacles to switching. The renewal process is highly transparent and insurers provide sufficient information prior to renewal for consumers to switch policies if they so wish. Cancellation fees (charged for cancellation before the annual renewal date) are proportionate to the costs incurred by insurers up to the point of cancellation.

- Theory of Harm 5: esure's CONFIDENTIAL [redacted] and it is not aware of any vertically integrated PCW sharing information with its owner. If this behaviour were occurring, the appropriate body to take any action required would be the OFT under the Competition Act 1998. esure also does not consider that any of the identified vertical relationships are likely to prevent, restrict or distort competition; in esure's view, these vertical relationships do not require further investigation by the CC.

2. Theory of Harm 1 – the separation of cost liability and cost control

2.1 esure understands that this Theory of Harm arises from the fact that liability for costs following a motor accident rests with the at-fault driver's insurer, which (if direct capture is not achieved) is unable to control the costs of the vehicle damage sustained by another party (i.e. for current purposes, the costs of repairs, including any parts and paint required, and a replacement vehicle for the duration of such repairs). This Theory of Harm was the focus of the OFT's market study and the basis for its decision to make a market investigation reference to the CC pursuant to section 131 of the Enterprise Act 2002.

Credit Hire

2.2 Of those Theories of Harm identified by the CC in its Statement of Issues, esure considers this Theory of Harm to be the most significant in terms of the competitive functioning of the PMI industry. It therefore considers that, consistent with the OFT's Decision to make a Market Investigation Reference,[1] Theory of Harm 1 should constitute the main focus of the CC's ongoing investigation into the PMI industry.

2.3 This particular Theory of Harm is most relevant to credit hire costs. The credit hire sector has grown exponentially as not-at-fault drivers are increasingly referred to credit hire organisations ("CHOs") by various parties (e.g. accident management companies, repairers, recovery firms, insurers and brokers), each of which are incentivised by the significant referral fees available. CHOs also have incentives to maximise the credit hire cost and, as the OFT concluded in its market study, the average duration for credit hire is longer than for bilateral hire and CHOs can 'over-provide' by providing upgraded vehicles and additional accessories.[2]

2.4 The impact of this behaviour on the average cost of vehicle hire is demonstrated by the analysis conducted by the OFT into the differences between the costs of a replacement vehicle for the not-at-fault driver when arranged by the at-fault driver's insurer and the costs where such a vehicle is arranged by the not-at-fault driver's insurer, which we replicate in Table 2.1 below:

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[1] OFT, '*Private Motor Insurance: Decision to make a Market Investigation Reference'*, September 2012.

[2] The OFT's 'report on the market study and proposed decision to make a market investigation reference' (May 2012) (OFT 1422) found that some CHOs were "*providing higher specification credit hire replacement vehicles… than is necessary*" (paragraph 3.12 of the OFT's Report).

Table 2.1
OFT's assessment of the cost of replacement vehicles for not-at-fault drivers

Arrangement of replacement vehicle for not-at-fault drivers controlled by:	**Average daily hire rates**	**Average hire period**	**Average cost of hire**
Insurer of the at-fault driver	£39	14 days	£530
Insurer of the not-at-fault driver	£59	19 days	£1,090

Source: OFT proposed decision to make a market investigation reference, Table 6.1.

2.5 There is no reason why the hire costs, as set out in Table 2.1 above, ought to differ between the two situations. esure considers that the majority of the customer detriment within the PMI market (estimated by the OFT to be in the region of £225 million, or the equivalent of £10 per policy) is the result of this unnecessary cost increment and the use of significant referral fees to encourage third parties to refer not-at-fault drivers to CHOs, even where that driver does not need, or even want, a replacement vehicle. esure estimates that inflated credit hire costs are adding [redacted] to the average esure premium as a result of the burn cost generated by those credit hire costs, as set out in Table 2.2 below.

Table 2.2
Cost of car hire and the impact on premiums

Hire Type	**Volume**	**Av. Cost**	**Burn Cost [1]**
Bilateral Hires	[redacted]	[redacted]	[redacted]
Credit Hire	[redacted]	[redacted]	[redacted]
Total (ex Direct Capture)	[redacted]	[redacted]	[redacted]

Source: esure's presentation to the OFT (13 April 2012).

Note: [1] Based on the average number of policy holders insured by esure for 2010 – 2011 of [redacted]
Burn cost = (Volume * Average Cost)/Average number of policyholders

Personal injury

2.6 esure agrees with the CC's conclusion that personal injury ought to be excluded from the scope of its investigation, since this is being resolved through a number of new of initiatives (including LASPO,[3] reductions of fixed legal costs and proposals in relation to whiplash claims), as mentioned in the Statement of Issues.

Remedies for this Theory of Harm

2.7 Despite the importance of, and the multiplicity of views in relation to, the issue of credit hire in PMI claims, the solution is relatively straightforward. In esure's view, the wide range of differing interests across the PMI industry, as regards the provision of credit hire, has obscured the simplicity of remedies that would address the relevant harm (namely, inflated costs which manifest in higher premiums).

2.8 Specifically, esure considers that the CC's concerns can be remedied through a combination of: (i) a ban on referral fees for credit hire (in addition to the ban on such fees for personal injury); and (ii) the adoption of Judicial Guidance on appropriate rates for, and duration of, credit hire. The rates under the General Terms of Agreement (the "GTA") have been set in consultation with the insurance and credit hire industries using existing judicial precedent to set the context to, and the level of, these rates. The combination of the conflicting interests of CHOs and insurance companies and the fact that participation in the GTA is voluntary has meant that the GTA's provisions have not been sufficiently successful in lowering the costs of credit hire. A set of Judicial Guidelines, drafted by an independent body, which would apply across the industry, would have a much more significant impact on the way in which credit hire is organised.

2.9 The problems with the current credit hire structure (as identified by both the OFT and CC) are similar in a number of ways to those identified for personal injury; the main concerns in relation to personal injury are substantial referral fees, which are funded by high fixed legal costs, and the increasing numbers and activity of claims management companies ("CMCs"), which search out potential claimants with a view to obtaining such referral fees.

2.10 As a result of these similarities, esure considers that the intended changes to the personal injury regime may usefully serve as a 'blueprint' upon which the CC can base a remedy for the causes of the anti-competitive circumstances in credit hire. In particular:

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[3] Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Table 2.3
Proposed remedies for Theory of Harm 1 on the basis of the actions in connection with personal injury reform

Identified concern	Remedy - personal injury	Remedy - credit hire
Due to the way in which the market is structured, insurers are not in a position to prevent excessive or fraudulent claims.	The current JSB Guidelines, which set tariffs for the level of damages to be awarded for each defined injury and the proposed adoption of a panel of experts to review alleged whiplash injuries are both intended to reduce the number of fraudulent and/or exaggerated personal injury claims.	Judicial Guidance could be drafted to identify (i) a range of acceptable hire rates for each class of vehicle; and (ii) the reasonable length of time for a credit hire arrangement. This would provide a degree of consistency across claims and allow insurers quickly and inexpensively to check the reasonableness of each claim.
Service providers have the incentive to bring exaggerated or spurious claims due to the value to them of such claims and the need to fund the substantial referral fees, which are necessary to compete for business in the credit hire segment.	The proposed reduction of fixed legal fees from £1,200 to £500 for claims under the Road Traffic Accident Portal is intended to reduce any potential incentive for personal injury solicitors to bring unmeritorious claims.	If the Judicial Guidance (as set out above) were to be adopted, CHOs would have fewer incentives to inflate their costs and would have to weigh such incentives against the possible consequences of an insurer bringing a successful claim against the organisation.
Referral fees act as an incentive for certain businesses (e.g. CMCs) to refer non-fault parties to businesses for reasons other than the service quality or price benefits of those businesses.	As of April 2013, the giving and receiving of referral fees will no longer be permitted in relation to legal advice for personal injury claims. This measure will reduce the incentives for third parties to refer not-at-fault drivers to solicitors specialising in road traffic accident personal injury claims.	An extension of this referral fees ban to include credit hire and repair services would also disincentivise entities from referring not-at-fault drivers to CHOs in order to benefit from the fees. The removal of this incentive would place more focus upon the needs of the non-fault party (see Theory of Harm 2, below).

Mitigation measures

2.11 In order to partially mitigate the consequences of credit hire as identified under this Theory of Harm, esure has subscribed to the GTA and is currently party to separate bilateral agreements with certain other insurers.[4] esure also operates a dedicated direct claimant services team. However, each of these mitigation measures has its limitations:

(i) GTA: the GTA provides a reasonable framework under which insurers and CHOs can work together to reduce costs; however, the current rates for credit hire set under the GTA are too high, because they were set in consultation with the credit hire industry (who have converse incentives) and within the context of existing legal precedents, themselves established under a model where the way in which credit hire operated stood to distort competition in the PMI industry;

(ii) Bilateral agreements: these are bespoke agreements between individual insurers and, as a result, each agreement varies in its terms and applications. The downside to such arrangements is that to provide a complete remedy to the harm, the volume of agreements would become too cumbersome to operate efficiently, thus thwarting the desired outcome of reduced cost and greater efficiency; and

(iii) Direct claimant services: these can only ever be a partial solution to the inflated costs of credit hire and subsequent distortions to competition that arise. Due to the current structure of the PMI industry, it is becoming increasingly difficult for the at-fault driver's insurer to make contact with the not-at-fault driver before any other entity which intends to benefit from the referral fees available in return for introducing the not-at-fault party to CHOs.

3. Theory of Harm 2 – difference of interest (and knowledge level) between the beneficiary and the procurer of services

3.1 esure understands that this Theory of Harm arises from potential difference in the interests, and in the level of knowledge, between the beneficiary of the services (i.e. the not-at-fault driver) and the entity which procures the relevant services (e.g. the insurer, the broker, the dealership or a roadside recovery company). This Theory of Harm considers the possibility that, in procuring the services, the procurer of the services may be in a position to benefit from the decision it takes (e.g. as to the appropriate level of service or the identity of the service provider), which may be to the detriment of the not-at-fault driver.

Scope of the Theory of Harm

3.2 esure does not consider this to be a plausible, standalone theory of harm. The only possible cause for concern is that the procurer of services may be incentivised to choose the service supplier (e.g. a specific vehicle hire company) with the highest referral fee. This would not be a concern for insurers (but may affect the conduct of other procurers of services), since insurers have long term relationships with their

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[4] Details of these agreements and copies are provided as part of esure's response to question 15 of the CC's Initial Questions to Insurers.

suppliers and place significant emphasis on the customer service and quality of repairs. Any such concerns as to the incentives created by referral fees would be resolved by esure's proposals to remedy Theory of Harm 1.

3.3 Once the referral fee incentive has been removed, the majority of the service procurers will have an active interest in providing the highest level of service possible to a customer in order to successfully compete within their relevant industries and grow their customer base through positive experiences and reviews. The not-at-fault driver's insurer will have the added incentive that if its policyholder is not satisfied with the service provided, it can easily switch to an alternative insurer at their next date for renewal (or possibly earlier).

3.4 esure's business model is geared towards retaining customers and therefore it aims to deliver the highest quality of repairs to its customers to ensure that they are satisfied with esure's service and are happy to renew their policies. In order to ensure that the highest quality of service is provided, esure established its approved repairer network in 2007 in conjunction with BSI and The Motor Insurance Repair Research Centre and all of esure's approved repairers are approved under BSI PAS 125.[5]

3.5 Since there is no distinction between the way in which esure repairs its at-fault drivers and the not-at-fault drivers it 'captures', these incentives for high quality repairs and service apply equally to all not-at-fault drivers esure deals with as a result of its direct claimant services.

3.6 Furthermore, by providing a non-esure insured driver (i.e. the not-at-fault driver) with a high level of service, esure increases its chances of gaining that driver as a policyholder when their PMI policy comes up for renewal, particularly since the barriers to switching for customers are low (see paragraphs 5.21 and 5.22 of this Response). In addition, if a direct capture customer encountered substandard service in relation to the handling of their claim/repair, esure would risk the possibility that such a customer would transfer their claim away from esure's approved network and take up a credit repair/hire arrangement, significantly increasing the ultimate cost to esure.

The role of the CC in remedying any concern

3.7 To the extent that, following further investigation, the CC remains concerned about Theory of Harm 2, without prejudice to the views on this theory of harm expressed above by esure, and its suggestion of a referral fees ban, esure agrees with the CC that the FSA/FCA is the most appropriate entity to consider any complaints as to the manner in which repairs or services are provided. In fact, esure understands that the FSA/FCA is already planning a thematic review of claims. Therefore, it would be disproportionate (and, in esure's view unnecessary) for the CC to intervene beyond providing a recommendation to the FSA/FCA.

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[5] http://www.bsigroup.com/en-GB/our-services/product-certification/industry-sector-schemes/automotive-product-certification-and-kitemark-schemes/vehicle-damage-repair-kitemark-pas-125/

4. Theory of Harm 3 – horizontal effects

4.1 This Theory of Harm relates to the potential for high market concentration (the CC refers particularly to concentration between insurers – i.e. those who underwrite PMI policies – and between PCWs), which may lead to higher prices or lower quality.

Horizontal effects – insurers

4.2 esure agrees with the CC that there is little scope for horizontal effects due to the high number of insurers across the PMI industry. Indeed, in recent merger investigations in the non-life insurance sector, including firms active in, *inter alia*, the provision of PMI,[6] the OFT has not found horizontal competition concerns, noting that:

> "*the non-life insurance [market is] very competitive… there are a large number of competitors offering their services at a national and international level. Third parties' responses suggest that sophisticated customers are able to switch providers in case of premium increases*".[7]

4.3 Moreover, in considering the potential concerns regarding horizontal effects in certain segments of the PMI industry, esure submits that the CC should take into account the way in which PCWs have opened the market for niche/smaller insurers who now do not need to invest significant sums of money in advertising in order to gain consumers, because new entrants and niche or smaller insurers are now able to rely on their being displayed on the various PCWs. According to a Consumer Intelligence report, the number of brands on the panels of the top PCWs rose from 145 to 193 between January 2009 and November 2012.[8]

4.4 Similarly, esure agrees with the CC's view that the barriers to insurers moving from one PMI segment to another are relatively low. In this respect, esure notes the OFT's finding, in the context of a merger investigation, in relation to supply-side substitutability:

> "*The majority of third parties' indicated supply-side substitution between different segments was not particularly difficult or very costly, particularly, in relation to 'similar' product lines where experience and business models can be easily carried over.*"[9]

4.5 esure does not consider that horizontal competition issues arise in any of the segments relevant to the CC's current investigation. This is particularly the case in segments

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[6] See, for example, Case ME/4424/10: *Marsh McLennan/HSBC Insurance* (2010); Case ME/2727/06: *Catlin Group/Wellington Underwriting* (2006).

[7] Case ME/2727/06: *Catlin Group/Wellington Underwriting* (2006).

[8] Consumer Intelligence, *The use of Price Comparison Sites in the UK General Insurance Market*, May 2010, page 9 and the latest figures available to insurers from Consumer Intelligence.

[9] *Ibid.*

within the PMI sector, where the high degree of supply-side substitutability (as demonstrated above) means horizontal competition issues are not likely to arise.

4.6 As regards the number of insurers currently active in certain segments of the PMI industry (e.g. young drivers), it should be noted that each underwriter will adopt a business strategy to determine which market segments to target. This strategy is distinctive for each individual underwriter and will be driven by its particular assessment of a range of factors including risk appetite, segment size, the competitiveness of each segment, the availability of capital, the level of underwriting knowledge and experience within a particular segment and the cost of entry.

4.7 CONFIDENTIAL [redacted]

4.8 CONFIDENTIAL [redacted]

Horizontal effects – PCWs

4.9 esure considers that PCWs exert a strong downward pressure on premiums as a result of the service they provide (the CC appears to agree with this statement at paragraph 52 of its Statement of Issues). Indeed, as the CC observes, the OFT's recent review of PCWs concluded that they made a positive contribution to consumer welfare. Much of that service is a direct result of the high number of policies which PCWs allow consumers to compare simultaneously. Despite the fact that there is a smaller number of PCWs (compared with underwriters of PMI), each website continues to compete strongly for consumers and, in esure's experience, PCWs have only marginally increased the fees they charge per acquisition over the past few years, and have not reduced the quality of their service offering. Furthermore, as customers are willing to check more than one PCW,[10] any decrease in service offered by a PCW will soon be noticed by consumers and will have a detrimental effect on that PCW's market position.

4.10 The market for the provision of PMI is highly competitive (see esure's comments at paragraph 4.2 of this Response) and PCWs have no means of adjusting or setting the quotation for PMI products published on their websites, beyond the inclusion of an MFN clause (see esure's comments at paragraph 6.4 and 6.5). Therefore, competition between PCWs is centred on non-price factors such as ease of use and the range of quotations available to consumers and PCWs are engaged in intense competition to win consumers on the basis of these factors. Even if the quotations provided by a single

[10] This is discussed further at paragraph 5.6 of this Response.

insurer were identical across each PCW, the intense competition between insurers will continue to prevail.

4.11 The level of competition amongst PCWs has further increased as a result of Google's acquisition of BeatThatQuote.com.[11] Google rebranded the PCW website and began offering quotations from 115 insurance providers[12] on 10 September 2012. On that day, MoneySupermarket.com's share price fell by 4%, with analysts noting the escalation of competition between PCWs.[13] This competition means that PCWs are not in a position to significantly raise the level of the cost-per-acquisition fee charged to insurers, in case they lose the network effects required for them to compete with rival PCWs.

5. Theory of Harm 4 – softening of competition

5.1 esure understands that this Theory of Harm arises from the way in which PMI is structured or supplied, which potentially has the effect of softening competition. In particular, the CC considers the possibility that:

- product differentiation results in high search costs for consumers, which may lead to consumers accepting sub-optimal policies;
- drip-in' pricing at the point of sale of PMI may result in consumer detriment;
- the complexity of add-ons offered by insurers could result in net consumer harm; or
- insurers may make it more difficult for consumers to switch policies by introducing certain obstacles, including: (i) automatic renewals; (ii) cancellation fees; and/or (iii) no-claims discounts.

Role of the FSA/FCA

5.2 A number of the potential concerns identified by the CC under this Theory of Harm are currently being considered by the FSA/FCA and/or would fall within their remit (such as automatic renewal, which falls within the FSA's regulation of unfair contract terms). For instance, the FSA announced on 19 December 2012 that it intends to start a study into general insurance products sold as add-ons (including those sold with car insurance) and consider whether these products weaken competition and drive poor consumer outcomes. This assessment is intended to continue until the third quarter of 2013, with a decision published shortly after.[14]

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[11] This acquisition (Google Inc/BeatThatQuote) was cleared by the OFT in its decision of 1 July 2011.

[12] https://www.google.co.uk/compare/carinsurance/form?_mc=btqweb_carinsurance

[13] The Guardian, "*Moneysupermarket hit by Google competition fears, as FTSE flatlines again*" (11 September 2012) http://www.guardian.co.uk/business/marketforceslive/2012/sep/11/moneysupermarket-google-ftse-flat

[14] http://www.fsa.gov.uk/library/communication/statements/2012/gi-study

5.3 esure believes that the FSA/FCA is best placed to consider and, if necessary, resolve these issues; therefore, it would be preferable for the CC to feed into the FSA/FCA's investigation rather than conduct a simultaneous review into these points, which could result in conflicting decisions.

PMI as a commoditised product and customers' search costs

5.4 Since there is little product differentiation in mainstream core coverage within PMI products, PMI is essentially a commoditised product. PCWs and the PMI providers' own websites contain large amounts of information on the cover provided, the features and benefits and any additional cover that may be available. Consumers derive significant benefits from this aspect of PMI.

5.5 Indeed, as the core coverage of the PMI product is so similar, customers need only consider a small number of factors (e.g. the level of excess that they are prepared to meet in the event of a claim, what they use their car for, whether they wish to protect their No Claims Discount and the method of payment) to tailor the base product to their own needs. PCWs, as well as the providers' direct websites and call centres, will guide customers quickly and simply through the cover selection process and the impact those selections would have on the premium. The development of PCWs has made this process much easier by allowing customers to only have to enter their details once in order to access a very large number of PMI products at the same time (with transparency as to the premium implications of those options).

5.6 Consumers are increasingly[15] using PCWs to compare a large number of policies quickly and cheaply (consumers can access up to c.130 quotes for PMI brands on a single PCW[16] at no cost). Those PCWs offer a filtering system by product type (or a 'tick-box' system of product features) where consumers are able to compare the relative features and benefits of a number of different products. The introduction of PCWs has made the comparison of policy features even easier and the search costs and/or time are not significant, as shown by the fact that a large proportion of consumers who use PCWs to obtain PMI visit more than one PCW to ensure that they get the best price/product.[17]

5.7 While each PCW has a slightly different approach to displaying the relevant information, most, if not all, PCWs will provide a 'key features' page which sets out the main aspects of the cover such as excesses, the availability of windscreen or foreign use cover and

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[15] Market research has found that around 56% of consumers bought PMI products via PCWs in 2010, which is an increase from 23% in 2007. Datamonitor, *UK Insurance Aggregators 2011*, (January 2012)..

[16] N.B. 134 represents the largest panel of motor brands on a PCW (MoneySupermarket.com) (www.money.co.uk/car-insurance/car-insurance-comparison-sites.htm),

[17] See the OFT's consumer survey, Question 9, page 67 of the OFT's *Summary of responses to the OFT's call for evidence*, December 2011.

policy limits (see Appendix 1). The full details of the cover and the wording of the relevant policy are then provided on the insurer's own site.

5.8 If the consumer purchases PMI cover directly from esure's website, they are also provided with a summary of the features of their policy prior to buying the PMI insurance policy (see Screenshots 1 to 3 of Appendix 2). This display includes a summary of the key features of the selected cover (as shown in screenshot 3 of Appendix 2).

'Drip-in' pricing

5.9 The way in which most insurers (including esure) inform their consumers of the price of their policy is to display the price for the standard cover the consumer has selected, based on the details that they have entered, and then separately display premiums for each available add-on, either individually or in combination. Where those add-ons are included by default, the consumer can quickly and easily remove them and proceed with the purchase of the core cover only.

Complexity of add-ons

5.10 Most available add-ons in the market are simple and straightforward additional covers (e.g. car hire extension) or services (e.g. breakdown) which are complementary to the core PMI cover and, in relation to products that esure sells, are clearly explained to customers at the point of sale.

Automatic renewal of policies

5.11 In addition to PCWs, which increase consumers' understanding of policies and allow them to shop around for the best offer, esure contacts its policyholders 30 days before the renewal day and provides them with full details of the renewal premium and any changes to the cover or services provided. This process is followed for all renewals, whether the customer has opted-in to automatic renewals or whether they are required to take some action before the renewal can take place.

5.12 In addition to the information above, where a customer has opted for automatic renewal, esure makes it very clear in the renewal invitation letter that they can stop the automatic renewal process at any time (e.g. where the customer has found a cheaper PMI provider or better cover elsewhere) up to the renewal date through a telephone call to esure. Each customer then has a 14 day 'cooling off' period after the renewal date, during which the fee charged for cancelling the policy is lower than it would be after this period. Examples of the renewal invitation letters (for both customers who have chosen to automatically renew and those who have not) are appended to this document as Appendices 3 and 4.

5.13 Given the high level of transparency within the renewal process, esure does not consider that automatic renewal represents a barrier to switching PMI providers or a risk of consumer detriment.

5.14 Furthermore, the CC's analysis of the consequences of automatic renewal must take into account the fact that consumers are legally required to have valid car insurance.[18] Therefore, preventing insurers from providing the option of an automatic renewal system would be detrimental to consumers. Any requirement to stop automatic renewal is likely to lead to an increase in premiums, as insurers would be required to cover the costs of the increase in uninsured drivers.

Cancellation fees

5.15 esure will only impose a cancellation fee where a customer cancels their contract before the annual renewal date. This charge is required to cover esure's up-front costs of a policy, which include the staff costs of taking customer calls, the costs of printing and posting introductory document packs and, where relevant, renewal documents to customers, the up-front fixed costs of underwriting, the costs of carrying the risk of cancelled policies,[19] marketing and transactional costs and the acquisition costs.

No-claims discount

5.16 Claims experience (both fault and non-fault) is a key risk factor in insurers' actuarial pricing models. At its most simplistic, claims in the recent past increase the possibility of future claims when all other risk factors (age, type of car etc) have been taken into account. Therefore, insurers will request full disclosure of previous claims from new applicants and esure believes that most insurers will use this information in their calculation of risk.

5.17 Without a protected no claims discount, a customer will lose some or all of their no claims discount in the event of a claim where the insurer is unable to recover their outlay from a third party or a third party insurer (essentially, fault claims). Insurers' no claims discount stepback arrangements (i.e. the number of years of no claims discount that is lost in the event of a fault claim in the absence of protected no claims discount) vary, but esure believes that the relevant period is generally two years.

5.18 Protected no claims discount is sold as an optional cover to the core PMI policy and allows the policyholder to retain their built-up no claims discount entitlement in the event of a claim occurring in the future that would otherwise have resulted in the loss of some

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[18] Section 143(1) of the Road Traffic Act 1988. The increasing use of automatic number plate recognition (or ANPR) cameras and the police's focus on Continuous Insurance Enforcement increases the risk consumers face of criminal charges of driving without insurance and having their car impounded.

[19] Under section 151 of the Road Traffic Act 1988, esure carries the risk for a cancelled policy as the 'last known insurer' where a former policyholder does not enter into another motor insurance policy and causes an accident that results in large third party claims.

no claims discount. However, it does not protect the customer from a premium increase in the event of a claim since, as stated at paragraph 5.16 above, most insurers use claims experience in their pricing models. esure's protected no claims discount product is for the life of the policy and does not have a limit on the number of claims allowed before the protection is lost.

5.19 esure's practice is to accept protected no claims discount where the customer's previous claims history makes them eligible for esure's scheme and, so far as esure is aware, this appears to be generally in line with the practice of most insurers.

5.20 Given the need for customers to disclose full details of previous claims and no claims discount and/or protected no claims discount entitlement to new insurers, there is no difference in the information available to potential new insurers and existing insurers. Furthermore, every insurer has limits to their risk appetite, which apply to previous claims and no claims discount or protected no claims discount in the same way as other factors such as age and type of car. Therefore, esure does not believe that no claims discount and/or protected no claims discount entitlement represent a barrier to consumer switching their PMI insurer.

General comments on consumers' ability to switch

5.21 During its call for evidence, the OFT ran a survey, the results of which indicated that 73% of private motor insurance policyholders in Great Britain shopped around at their last renewal (54% in Northern Ireland). Of those that shopped around, 45% in Great Britain (33% in Northern Ireland) switched their PMI provider.[20]

5.22 These statistics indicate that consumers do not encounter any problems in switching PMI provider either as a result of the factors suggested by the CC (as discussed above) or otherwise.

6. Theory of Harm 5 – vertical effects

6.1 esure understands that this Theory of Harm arises from the vertical relationships (either through equity or contract) between companies at different levels of the PMI industry. For each type of vertical relationship, the CC identified its initial concerns:

- insurers/brokers and PCWs: the CC identified a number of potential concerns, including an insurer gaining insight into their competitors' risk and pricing models, insurers using the information available to undercut or manipulate the quotations provided on the PCWs, the possibility of limiting access to the integrated PCWs and the potential for PCWs to require MFN clauses in their contracts with insurers/brokers;

[20] OFT's 'summary of responses to the OFT's call for evidence' (December 2011), paragraph 3.7.

- <u>insurers and brokers</u>: the CC identified potential concerns in relation to input foreclosure (where a broker-integrated insurer could increase the price of its policies with rival brokers, increasing their costs) or customer foreclosure (where a broker delists a rival insurers' policies to increase sales for the integrated insurer);

- <u>insurers and repairers</u>: the CC intends to focus on whether there are any areas where the repair market is concentrated and some repairers are vertically integrated with insurers, since this may create an opportunity to increase prices; and

- <u>insurers and parts/paint manufacturers</u>: the CC intends to consider the possibility that some, but not all, insurers will benefit from discounts on the price of paint or parts, leaving the other insurers at a disadvantage.

Vertical effects – insurers/brokers and PCWs

6.2 esure agrees with the CC's view that it is not necessary to consider the possibility of PCW-integrated insurers/brokers gaining any insight into their rivals' risk and/or pricing models or limiting rivals' access to PCWs.

6.3 If any PCW-integrated insurer has knowledge of its rivals' pricing of risk and/or is undercutting its rivals' quotes or otherwise manipulating the results of a consumer's search, esure considers that this would be most appropriately dealt with through an investigation by the OFT under to the Competition Act 1998.[21] However, esure is not aware of any such conduct occurring in practice. esure currently has a CONFIDENTIAL interest in GoCompare.com; however, it is treated in the same way as any other GoCompare.com panel insurer and does not have access to any other insurer's real time or historic quoted premiums via GoCompare.com or any other PCW.[22]

6.4 esure disagrees with the CC's proposal to exclude from its investigation the use of MFN clauses in contracts between insurers and PCWs. While potential benefits may result from the use of both such clauses, esure considers that the potential customer detriment from their use outweighs any such benefit.

6.5 The existence of MFN clauses prevents esure from offering lower prices on a PCW which its considers to best represent its commercial interests (i.e. which delivers a high volume of desirable sales). For example, if a PCW were able to offer a more thorough risk assessment prior to offering a comparison of policy prices, esure would not be in a position to adjust its policy pricing on that particular PCW to reflect the lower risk represented by that customer, because it would need to match that price on the PCW

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[21] The OFT investigated a similar question in relation to PMI in relation to the use of a specialist market analysis tool called WhatIf? Private Motor. The OFT's investigation began in January 2010 and accepted undertakings for seven insurance companies and two IT software and service providers in January 2011 (these commitments were subsequently amended in September 2011).

[22] esure's engagement with GoCompare.com is purely CONFIDENTIAL [redacted] and has no access to operational data and information which is not available to other panel members.

which holds the MFN clause.[23] MFNs can also prevent insurers from being able to sell policies direct to consumers at a lower price than on the PCW with the MFN clause, notwithstanding the fact that the insurer will typically be able to better assess the risk of a policy in a direct sale scenario.

Vertical effects – other identified relationships

6.6 esure agrees with the CC that it need not consider the vertical relationships between insurers and brokers.

6.7 The remaining concerns of the CC under this Theory of Harm are best considered in parallel with Theory of Harm 1; however, esure is not aware of any basis to conclude that vertical relationships between insurers and repairers (and insurers and parts/paint suppliers) are likely to prevent, restrict or distort competition in the PMI industry.

6.8 esure does not own or have any financial interest in any vehicle repairers; however, it has operated an approved repairer network since 2007 in order to better manage the quality of repair and the standard of service provided to its customers in addition to managing the costs associated with such repairs.[24] Nothing in the contracts governing esure's approved repairer network prevents those repairers from providing services to esure's rival insurers or any other procurer of services.

6.9 esure does not have any direct relationships (either in contract or equity) with specific parts or paint providers and does not mandate the use of specific paint or parts suppliers to its approved repairer network. Nevertheless, esure has been involved in negotiations to secure larger discounts from the primary parts suppliers to the esure approved repairer network. These discounts will enable esure to better control the costs of vehicle repairs and will be reflected in the lower PMI premiums esure will be able to offer to customers.

9 January 2013

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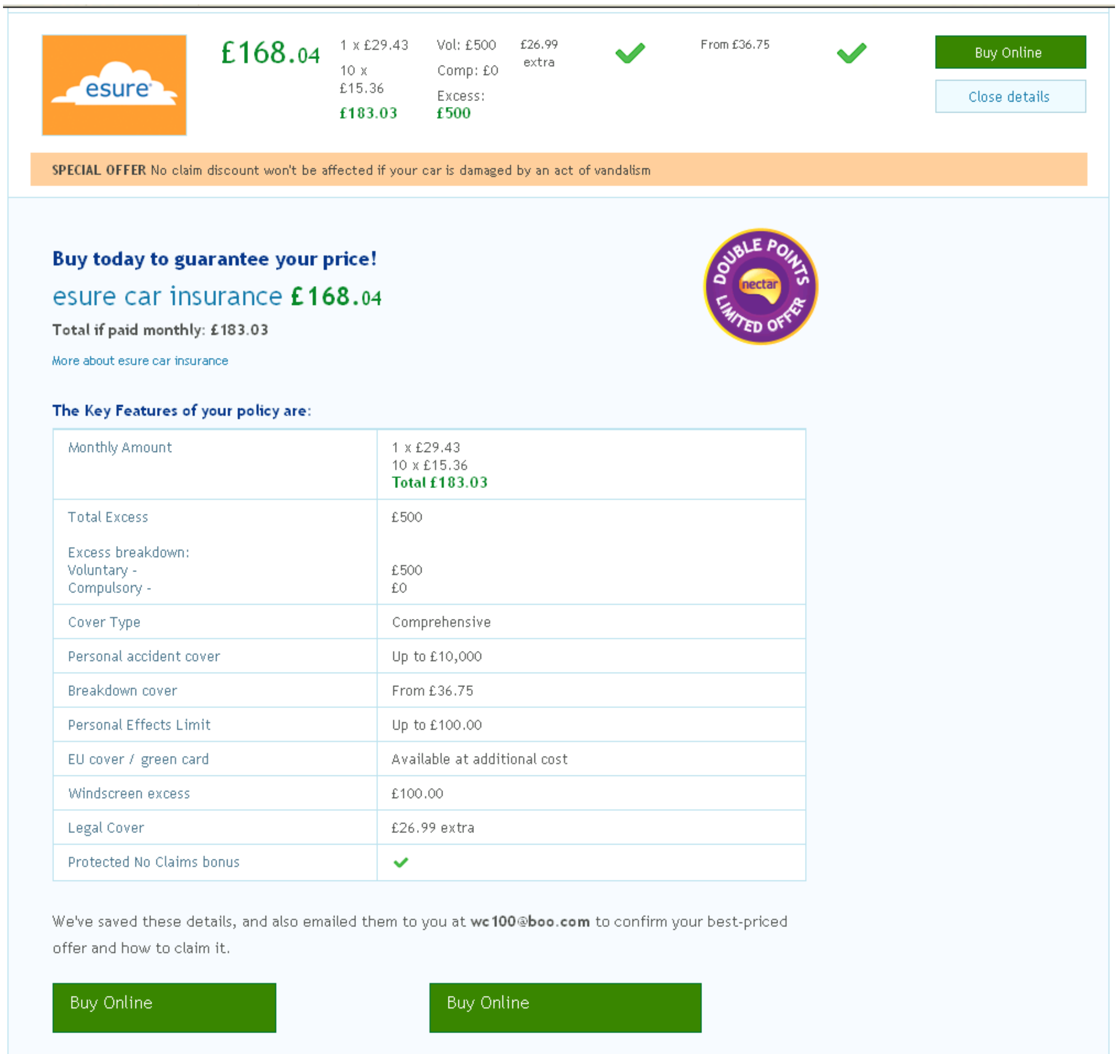
[23] The benefit to esure of such an innovation may be reflected through a higher charge-per-acquisition fee paid to that PCW, but this does not result in lower premiums and, therefore, is not a benefit to consumers.

[24] The approved repairer network is discussed in more detail at paragraph 3.4.

Appendix 1
Example screenshot of the ‘key features’ display on a PCW as shown to customers upon selecting a PMI policy



esure

£168.04

1 x £29.43
10 x £15.36
£183.03

Vol: £500
Comp: £0
Excess: £500

£26.99 extra

From £36.75

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Close details

SPECIAL OFFER No claim discount won't be affected if your car is damaged by an act of vandalism

Buy today to guarantee your price!

esure car insurance **£168.04**

Total if paid monthly: £183.03

More about esure car insurance

DOUBLE POINTS LIMITED OFFER nectar

The Key Features of your policy are:

Monthly Amount	1 x £29.43 10 x £15.36 **Total £183.03**
Total Excess Excess breakdown: Voluntary - Compulsory -	£500 £500 £0
Cover Type	Comprehensive
Personal accident cover	Up to £10,000
Breakdown cover	From £36.75
Personal Effects Limit	Up to £100.00
EU cover / green card	Available at additional cost
Windscreen excess	£100.00
Legal Cover	£26.99 extra
Protected No Claims bonus	✔

We've saved these details, and also emailed them to you at **wc100@boo.com** to confirm your best-priced offer and how to claim it.

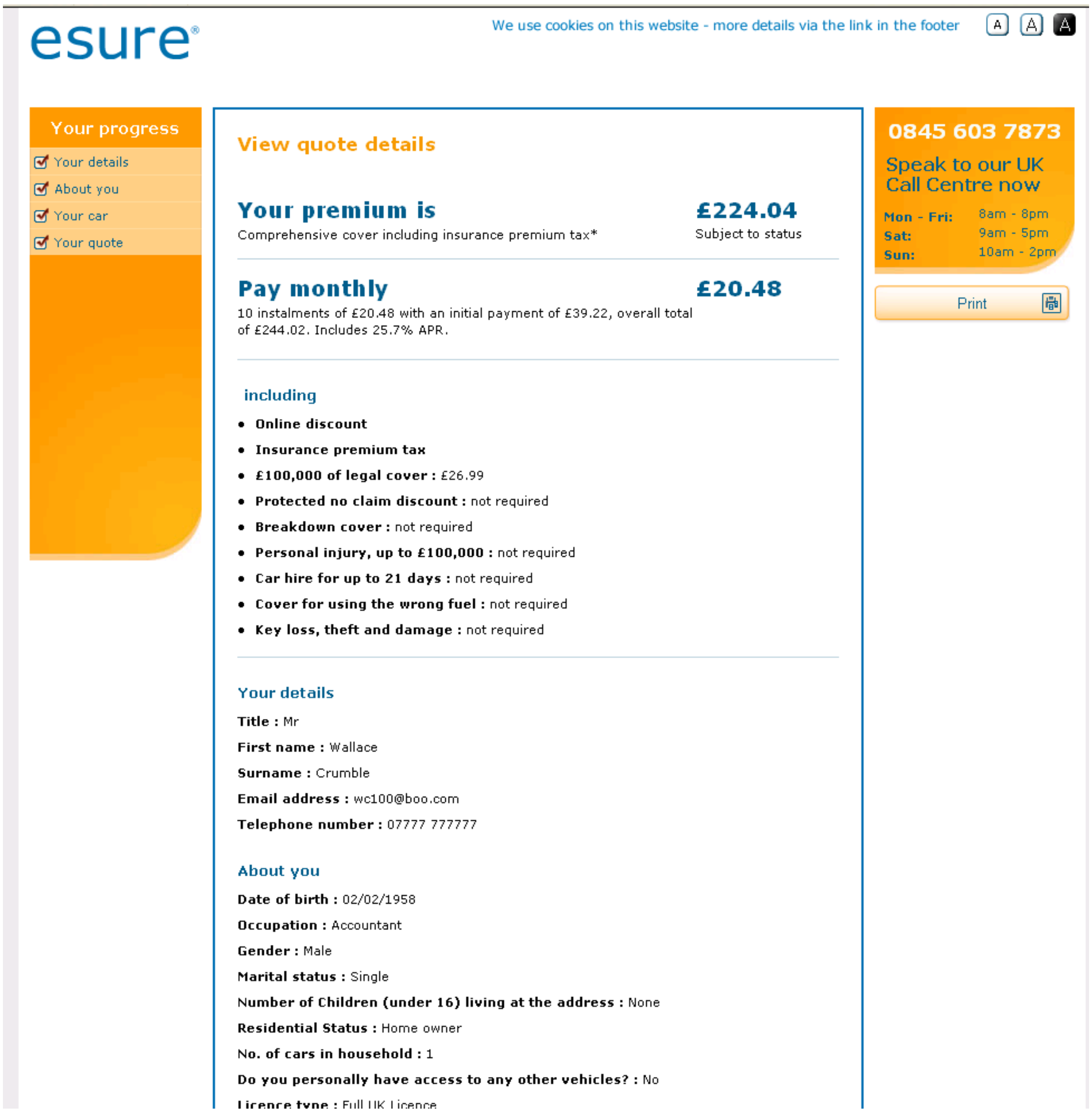
Buy Online

Buy Online

Source: Confused.com

Appendix 2
Example screenshot of the policy quote details screen on esure's own website, which is shown before the policy is purchased

Screenshot 1:



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Your progress

- Your details
- About you
- Your car
- Your quote

View quote details

Your premium is £224.04

Comprehensive cover including insurance premium tax* Subject to status

Pay monthly £20.48

10 instalments of £20.48 with an initial payment of £39.22, overall total of £244.02. Includes 25.7% APR.

including

- **Online discount**
- **Insurance premium tax**
- **£100,000 of legal cover :** £26.99
- **Protected no claim discount :** not required
- **Breakdown cover :** not required
- **Personal injury, up to £100,000 :** not required
- **Car hire for up to 21 days :** not required
- **Cover for using the wrong fuel :** not required
- **Key loss, theft and damage :** not required

Your details

Title : Mr
First name : Wallace
Surname : Crumble
Email address : wc100@boo.com
Telephone number : 07777 777777

About you

Date of birth : 02/02/1958
Occupation : Accountant
Gender : Male
Marital status : Single
Number of Children (under 16) living at the address : None
Residential Status : Home owner
No. of cars in household : 1
Do you personally have access to any other vehicles? : No
Licence type : Full UK Licence

0845 603 7873
Speak to our UK Call Centre now
Mon - Fri: 8am - 8pm
Sat: 9am - 5pm
Sun: 10am - 2pm
Print

Screenshot 2:

Number of children (under 16) living at the address : None

Residential Status : Home owner

No. of cars in household : 1

Do you personally have access to any other vehicles? : No

Licence type : Full UK Licence

Years licence held : 15 Years or more

NCD years (You will be required to supply proof of this) : 10 Years

Cover start date : 08/01/2013

Cover end date : 08/01/2014

Registration number : W38LPA

House name/number : 80

Postcode : KT24 5NX

Your car

Make : RENAULT

Model : MEGANE SCENIC ALIZE 16V,1598cc,5dr(1999-2001)

Fuel type : Petrol

Transmission type : Manual

Year of registration : 2000

Estimated value of your car : Under £5,000

Estimated annual mileage, including business mileage : 5001 - 6000 miles

Where is your car kept overnight : Driveway

Car Purchase Date : 07/08/2000

Security devices fitted to your car : None Fitted

Legal owner of this car : Proposer

Registered keeper of this car : Proposer

Your claims, accidents or losses in the last 3 years

- None disclosed

Your convictions, endorsements or fixed penalty offences in the last 5 years

- None disclosed

Additional drivers

- None disclosed

Additional driver(s) claims, accidents or losses in the last 3 years

- None disclosed

Screenshot 3:

- None disclosed

Additional driver(s) claims, accidents or losses in the last 3 years

- None disclosed

Additional driver(s) convictions, endorsements or fixed penalty offences in the last 5 years

- None disclosed

Your car cover

Cover level : Comprehensive

Use of car : SD&P and personal business of the policyholder

Driving other cars : Yes

In-car audio : £1,000

Personal accident : £5,000

Personal belongings : £100

Medical expenses : £300

Your excesses

Voluntary vehicle damage : £250

Compulsory vehicle damage : £0

Repair work by your own repairer : £200

Driver specific vehicle damage :

1. Mr Wallace Crumble : £0

Fire : £100

Theft : £250

Windscreen : £100

Please note that all vehicle damage excesses are cumulative

Declarations

I am the main driver of the car	Yes
My car is a UK vehicle and is registered in the UK with the DVLA	Yes
My car has not been modified from the manufacturer's specifications	Yes
All drivers including myself have informed the DVLA about any medical conditions that are required to be reported	Yes
All drivers including myself have been permanently resident in the UK for more than 3 years	Yes
All drivers including myself have held a UK licence for at least 3 years	Yes
All drivers including myself have not been convicted or cautioned in respect of any offence involving dishonesty, fraud or arson or have any prosecution or police enquiries pending for such offences	Yes
All drivers including myself do not have any prosecutions pending in relation to motoring offences	Yes
My car will only be used for social, domestic and pleasure purposes, commuting to and from a permanent place of work or personal business use for me and my partner if named on the policy	Yes

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Source: *esure*

Appendix 3
Renewal invitation letter for a customer who has selected the automatic renewal option for their PMI policy

(Provided separately)

Appendix 4
Renewal invitation letter for a customer who has selected not to automatically renew their PMI policy

(Provided separately)