

Inquiry Manager
Private Motor Insurance market investigation
Competition Commission
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**Response to the Statement of Issues relating to the Competition Commission Private
Motor Insurance Market Investigation**

Submitted by



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1. Overview

1. The National Association of Bodyshops is the leading not-for-profit trade association representing the UK body repair sector.
2. The accident repair market has suffered a significant reduction in the number of service providers operating within the sector over a prolonged period. The estimated number of individual shops now operating across the sector (including small one to two person operations to larger repair groups) is circa 2,500 outlets, down from c20,000 in 1972. A similar trend has appeared across the developed world.
3. This reduction is a result of a number of contributing factors including efficiencies required by the insurance industry, a reduction in claims frequency and less overall demand that have consolidated these reductions within the sector. While the body repair industry has been exposed to the pressures of contraction, it has been necessary to redress the oversupply that has evolved as the market has matured.
4. NAB has already supplied evidence to the Office of Fair Trading and would ask that the material already submitted be considered within this investigation [REDACTED]
5. NAB has concerns that the industry may not be able to meet consumer needs in the future owing to unsustainable levels of return on investment.
6. NAB calls for a sustainable supply chain that is able to address the future needs of consumers and therefore supports the Competition Commission during its investigation into the sector.
7. After consideration of the information within the Commission's statement of issues, NAB suggests that the scope of the inquiry should also cover the handling of Commercial and Fleet Motor Insurance claims costs. These claims (representing a substantial sector within the overall market) have a direct effect on the cost of private motor insurance via the subrogation process under ToH 1:
8. We have obtained the latest Association of British Insurers (ABI) published figures available for motor vehicle insurance premium revenue:
9. The latest available market figures published by the ABI are 2010 figures, shown below. The figures do **not** include Lloyds Syndicate insurers, who are estimated to account for £2bn market share nor are offshore insurers who do not belong to the ABI.

CLASS	2010	2009	2008
Total CV and fleet	£2.88bn	£3.10bn	£3.01bn
Private car	£9.8bn	£8.75bn	£8.9bn
Motor Cycle	£118m	£128m	£135m

The above figures do not include self-insured fleets.

2. NAB response to the Competition Commission's statement of issues

1. **(ToH 1)** "Whether the separation of cost liability and cost control in the supply of services (excluding PI) to non-fault parties involved in motor accidents increases the costs of the services supplied (due to a lack of price competition or an unwarranted increase in quality)."

NAB agrees that a hazard exists in respect of ToH 1 and further investigation is required. NAB accepts that changes are soon to occur in relation to PI. NAB suggest that while the Commission considers evidence relating to PI it may also be in a position to make useful recommendations to the MoJ as a result of its investigations.

2. **(ToH2)** "Whether consumers may be put at a disadvantage due to information asymmetries and a lack of alignment between their interests and those of the parties which procure post-accident services on their behalf (ToH 2). "

NAB agrees consumers are at risk of detriment as a result of potential conflicts of interests and is of the opinion that consumers must be safeguarded by addressing the lack of transparency within claims handling. An anecdotal example of consumer detriment is that in the event of the at fault insurer taking control of a claim, the non-fault driver has no legally binding insurance contract with the at fault insurer and by accepting the services provided / recommended, might receive sub-standard repairs driven by the desire of an at fault insurer to reduce costs.

3. NAB has no evidence in respect of the statements made at ToH3(a), ToH 3(b), ToH 4(a), ToH 4(b), ToH 4(c), ToH 4(d), ToH 5(a),
4. **(ToH5(b))** "Whether there are any areas where both repair is concentrated and some repairers have vertical relationships with insurers, such that rival insurers may face higher repair costs. We intend to conduct this analysis at a high level initially in order to consider whether to investigate this potential harm in more detail (ToH 5(b))."

NAB suggests many of the issues supporting ToH5 relate to communications practices between repairers and insurance/accident management engineering staff. Seemingly, many of the procedures may operate outside company compliance policy and may be a byproduct of conflicts borne out of the requirement to provide indemnity through a combination of cost mitigation, customer service/satisfaction and profit permitted within the subrogation process. This behaviour can result in market dysfunctionality through, on the one hand, cost suppression measures that undermine supply sustainability and, on the other, cost inflation generated by the non-fault process. Systemic "harm" can usually only be determined through the intervention of "whistleblowers" as evidenced by the Channel 4 programme Dispatches (7 January 2012) <http://www.channel4.com/programmes/dispatches/4od#3463433> - a situation that arises through fear of reprisal by those who pay claims.

NAB are of the opinion that the following are examples of practices/processes that have been identified and that appear to promote dysfunctional and anti-competitive behaviour within the insurer/repairer sector:

Projects

[REDACTED] has for some time operated within its wholly-owned network of repair centres several [REDACTED] projects. These have not been cost models that their [REDACTED] approved repairers have been able to charge. [REDACTED]

This project was initiated approximately four years ago and the charging model has been based on high repair rates that are cross-charged to themselves and in the case of non-fault are presented to the at fault TP insurer for payment.

It is anticipated that 40% of the total number of repairs would be recoverable from the at fault insurer with an approximate value of £52m. Thus we would calculate that [REDACTED] centres are overcharging at fault insurers by around £8.8m per annum and over the past four years we would anticipate the overcharge to be in the region of £25m [REDACTED].

The Recovery Sublet charge is applied irrespective of whether a recovery/transportation of a vehicle has been made; a vehicle may have been deemed unfit to be driven due to a minor discretionary technicality.

Project

This project has currently been shelved until the final outcome of the controversial [REDACTED] case (*Kevin Fallows v Harkers Transport*) (Page 5 NAB/OFT Output of Conference Call Annexe B) is known. The project criteria was to set up a shell company [REDACTED] to receive all invoices for repairs undertaken by [REDACTED] then to invoice them centrally with an enhanced value that would ultimately be passed onto the at fault insurer. We are informed that [REDACTED] were engaged in providing an automated invoice enhancement tool to automatically add cost to the invoice and some legitimacy to the additional costs. As in the case of [REDACTED] it is thought that advice has been taken from specialist consultants, [REDACTED] (Page 5 NAB/OFT Output of Conference Call Annexe B).

If implemented this would cause harm to the consumer by artificially inflating the cost of third party repairs.

██████████ Total Loss Calculator

This is a current tool used within the ██████████ repair facilities. The insurance industry will normally repair a vehicle up to around 65% to 70% of the pre accident value. This tool is a sophisticated spread sheet that enables the cost of repairs to be entered; it will calculate the cost advantage of repairing the vehicle up to 120% of the pre accident value while making an allowance for the cost of losing/recruiting a new policy holder. Additionally, the tool will factor in the availability of a Centre's resource to execute the repair.

This practice does not consider a policyholders' best interest and to be passed onto the at fault insurer can incur further costs. Furthermore, it is actually subsidising ██████████ and ██████████ cost of replacing the policyholder. It can also lead to corner and cost cutting with regards to the safety of repairs.

Use of Accident Management Companies

Accident management intermediaries fall into several categories:

1] Those representing fleet operators who may provide vehicles through lease arrangements eg ██████████ those who self-insure (eg ██████████) or those who wish to mitigate their own insurance claims costs (eg ██████████)

2] Those small insurance companies who are aggregated to provide economies of scale for processing / settlement of at fault claims (eg Innovation Group)

3] Those who represent third party policyholders introduced by non-fault insurers or through a direct referral (police, recovery operator, solicitor, insurance broker, claims harvester, repairer (eg ██████████))

4] Solicitors representing third party policyholders (similar to 3 above) eg Winn Assist

5] Any combination of the above eg ██████████

All the above categories may exacerbate claims cost and contribute to market dysfunctionality as the intermediaries seek to generate profit through their involvement in the claims process.

Consumer detriment can arise within any of the above categories as a result of third party exposure through the subrogation process. In the cases of [2], [3], [4] and [5], under the terms of the Financial Services & Markets Act 2000, consumers may suffer detriment through the insolvency of an accident management intermediary as demonstrated during the recent demise of Drive Assist <http://www.driveassist.co.uk/>. Repairers and others may, as a result of an intermediary failure, be unable or unwilling to provide levels of customer service and satisfaction because they have been unpaid for work undertaken or are in the process of completing, leaving consumers unprotected.

██████████ Electronic Repair Assessments

██████████ is an electronic library of repair data used by the overwhelming majority of UK insurers (>80% market coverage) to generate repair estimates. The system is mandated by most insurers for use by their approved repairer networks. There is little or no significant competition and therefore access costs appear

significantly higher in the UK than elsewhere in Europe where several systems prevail. The cost per repair assessment (repair claim) is circa £19, more than the publicly quoted profit per repair by the two leading body repair chains [REDACTED]

The UK repair industry has suffered from insurer price suppression through labour and parts charges over the years (largely since the introduction of [REDACTED] in the late 1980s). As a result, repairers have sought to question the validity of data (which is drawn from a combination of disparate warranty times and parts prices provided by vehicle manufacturers and paint allowances provided by [REDACTED]). This has resulted in the admission of significant errors and omissions within data provided by the system. In the past, insurers have been successful in combining together to pressure Audatex to implement manual workarounds to correct system shortcomings. More recently, because of market dominance concerns, Audatex has been forced to resist pressures from its insurer clients to manipulate data in this way, although many feel that there are more cost effective ways to provide the insurance industry with the level of security it requires to reserve claims.

Average Repair Cost Model (7a) Page 4: (NAB: Office of Fair Trading Call for Evidence Annexe A) [REDACTED]

Over the past few years various insurers have required their repair networks to adopt fixed price repairs. This model works on the basis that the insurer decides how much they deem appropriate to pay on average for all the accident repairs to any one supplier or its entire network irrespective of make and model of vehicle or severity of damage.

The essence of this cost model requires the repair network to ensure it drives down cost, ultimately leading to cutting of corners and in many cases compromising the overall quality of the repair to the detriment of the consumer.

An example of how this works in practice is outlined below:

A repair invoice is submitted to the insurer in the traditional format ie normal pricing structure as agreed for labour parts and paint and materials. These invoices are collated over a calendar quarter and are then divided into the number of units to provide an average cost across total spend.

The net result is that if the average cost of invoices submitted exceeds the agreed value that the repair centre contracted to then the repairer has to repay the insurer for any difference.

Example

209 invoices submitted over the period total value of £240,350-00

209 agreed average repair cost model of £1048-00 £219,032-00

Differential to be repaid to insurer = £21,318-00

Some insurers, for example [REDACTED] insist that majority (but not all) of its network must undertake average repair cost contracts. NAB's position is that this type of contract drives potentially damaging behaviour when repairing a vehicle and exposes the consumer to potential harm.

Cash in Lieu of Repairs settlement (7b) Page 4: (NAB: Office of Fair Trading Call for Evidence Annexe A) also Market Issue 5 Page 6 (NAB/OFT Output of Conference Call Annexe B). Most insurers engage in the practices outlined.

Insurers changes in policy terms and conditions (7c) Page 4: (NAB: Office of Fair Trading Call for Evidence Annexe A) [REDACTED]

Write-Off or Total Losses (7d) Page 5: (NAB: Office of Fair Trading Call for Evidence Annexe A) and Market Issues 6 Page 6 (NAB/OFT Output of Conference Call Annexe B). There appears to be action by some insurers to invoke cancelation of policy at the point of total loss which represents significant detriment to some policyholders.

Insurer owned repair shops (7e) Page 5: (NAB: Office of Fair Trading Call for Evidence Annexe A) also Market Issue 3. Insurer VAT Advantage, Avoidance and Evasion Page 2: (NAB/OFT Output of Conference Call Annexe B); "Competition within the Motor Repair Sector" below eg [REDACTED]

Market Issue 1. Repairers are requested by their Insurer or Other work provider to use a specific paint brand and/or paint distributor Page1: (NAB/OFT Output of Conference Call Annexe B) eg most large insurers and accident managers.

Market Issue 2. Insurer/Work provider interference in parts supply Page 2: (NAB/OFT Output of Conference Call Annexe B) [REDACTED]

Failure by some insurers to adopt a common industry minimum standard for their approved repairer networks

Despite the adoption of the industry standard PAS125 by the overwhelming majority of insurers and accident management companies for their approved repairer networks, others (notably [REDACTED] refuse to acknowledge PAS125's value. Their policyholders/customers may therefore be placed at a disadvantage when directed to bodyshops that do not operate to this minimum industry standard.

Competition within the motor insurance sector

NAB questions why smaller insurers and their representative bodies including the Association of British Insurers and the Repair /Research Centre (Thatcham), have remained silent over known subrogation issues and concerns that adversely affect their ability to provide competitive premiums. These include:

i] The purchasing power enjoyed by larger insurers to rebate paint, parts and other bought in services - such as legal / medical expenses, salvage, third party charges. This is achieved through their approved repairer networks (Market Issues 1 and 2 above) and is implemented by most large insurers and accident management companies;

ii] The unfair savings in VAT enjoyed by large insurer-owned bodyshops [REDACTED]

[REDACTED] (Market Issue 3 Annexe B);

iii] The ability of large insurer owned bodyshops to maximise repair charges to an at fault insurer eg [REDACTED] (Market Issue 3 Annexe B)

iv] The negative effect on the competitiveness of privately owned bodyshops within a specific area covered by insurer owned bodyshops, including distorting the availability of work and the stimulation of uncompetitive terms of employment/working conditions (Market Issue 3 Annexe B);

v] The failure under the RIPE (reduction in paper exchange) system to transparently make available and permit the subrogation of claims between insurers for forensic scrutiny

NAB believes that all insurers are complicit in accepting and/or endorsing procedures, of which may contribute towards influencing market competitiveness through their participation in a number of ABI sub-committees. Such sub committees include The Engineers Technical Sub-Committee (ETS) and Research Liaison Group (RLG) <http://www.thatcham.org/about/index.jsp?page=1291> together with the Thatcham Board <http://www.thatcham.org/about/index.jsp?page=13>

An example of this insurer collaboration is Thatcham's recent attempts to establish a fictitious, theoretical paint company using the consultancy firm, [REDACTED]. The object of the "company" was to research and monitor the reasons contributing to beyond-inflation increases in the price of paint and associated materials used in the body repair industry and then to try to reduce costs by highlighting pricing of cheaper brands. It is understood that the research was discontinued after a representative of a large insurer member of the Thatcham Board felt compromised by data which showed that the price of the paint brand being endorsed by his company was rising at a faster rate than anyone else's – presumably because of rebating costs being borne by the paint company.

The Commission are invited to seek clarification of the above project through [REDACTED]
[REDACTED]

5. (ToH5(c)) "Whether harm may arise from vertical relationships between insurers and parts/ paint providers, either as a result of input foreclosure or customer foreclosure. We intend to investigate this issue at a high level initially before deciding whether to consider it in more detail."

This issue has been highlighted above (Thatcham case) and in the NAB/OFT Output of Conference Call Annexe B. In addition, NAB understands that Andrew Moody a barrister with Retail Motor Law www.retailmotorlaw.co.uk has produced a comprehensive report on the way insurance companies and accident management intermediaries distort and manipulate the price of refinish paint through the rebating system. This was featured in the Channel 4 Dispatches programme outlined above.

NAB is of the opinion that the insurers' insistence on the use of composite paint price data provided within the [REDACTED] estimating system contributes towards annual paint price inflation. At the same time every year, the UK's four principal paint suppliers are requested by [REDACTED] to provide details of proposed price increases. These increases are often significantly beyond the rate of inflation. This data is then embedded as an aggregated paint allowance within the Audatex estimating system. NAB submits this yearly request for paint price data by [REDACTED] skews paint manufacturer pricing behaviour.

9 January 2013 [REDACTED]
[REDACTED]
[REDACTED]

