AXA RESPONSE TO WORKING PAPERS

6 SEPTEMBER 2013

1. INTRODUCTION

AXA welcomes the opportunity to comment on the Competition Commission's ("**Commission**") Annotated Issues Statement (published on 5 July 2013) and related working papers. AXA has not commented on many of the issues raised by the Commission at this stage in the investigation for the reasons set out below. 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 Annotated Issues Statement and working papers. AXA reserves its right to submit further comments to the Annotated Issues Statement and working papers in the coming weeks.

As discussed with the Commission on a number of occasions, AXA does not believe that it has been provided with adequate time to form an informed position on the various working papers and therefore, the issues presented in the Annotated Issues Statement, as a whole. A number of factors have contributed to this view:

- The sheer volume of working papers published (22 in total);
- The publication of the working papers over the summer holiday period (July – August) when a large number of relevant individuals are away and therefore unable to review and comment on the issues raised within the working papers or obtain a overall view of the Commission's analysis (not possible until all working papers are published);
- The short three-week deadline from the publication of the last working paper, at a critical holiday period which has made it very difficult to obtain the right level of engagement from the AXA business; and
- The many requests for data and information (including putback) over July and August, resulting in conflicting demands on the same (already limited) resources.

In spite of the above, AXA was informed that any submission provided to the Commission following 6 September would be reviewed by the staff but may not be given the same due consideration by the Inquiry Group. The Commission was therefore not open to discussing any extension to the tight deadline. AXA believes that this will have an impact on: (i) the parties' ability to comment on the Commission's thinking prior to the provisional findings stage which may already present possible remedies; and (ii) the quality of the submissions received by the Commission ahead of its provisional findings (and remedies notice if required). AXA reserves its right to make further submissions on this point.

The information provided in this response is strictly confidential and contains business secrets. Accordingly, no information should be disclosed to any third party without the prior written consent of AXA.

2. RESPONSES TO INDIVIDUAL WORKING PAPERS

2.1 [✂]

2.2 Theory of Harm 1: Overcosting and overprovision of TRVs

2.2.1 GTA and Non-GTA Claims

In response to the Commission's analysis of the GTA, AXA wishes to reiterate the sentiments of the parties to the multi-party hearing with the Commission on 16 July 2013 in relation to the current inefficiencies of the GTA.

In addition, although the Commission has found that the GTA reduces the cost of hire and frictional claims costs, the Commission has based these findings on the data of two insurers. We would suggest that the data from these insurers may not be representative of all subscribers to the GTA.

AXA disagrees with the Commission's classification of claims that have fallen out of the GTA process as 'non-GTA claims'. We would suggest that part of the problem with the GTA is that a large amount of claims fall outside of the agreed process. By classifying such claims as non-GTA, the Commission is underestimating the actual frictional costs that insurers incur by being subscribers to the GTA as when such claims fall out of the GTA, the frictional costs increase considerably. In order to analyse the GTA effectively the Commission should class all claims that start off in the GTA as "GTA claims" and account for the frictional costs until settlement is reached.

As the Commission has correctly identified, claims which fall out of the GTA are normally the most complex or high value claims and therefore incur greater frictional costs than claims that are not under the GTA.

If the Commission treats such claims as AXA suggests, the Commission will see that the difference in settlements and frictional costs between GTA and non-GTA is lower than articulated in this working paper.

2.2.2 Bilateral Hire

AXA supports the Commission's findings that bilateral agreements save on both the cost of hire and frictional claims costs. [✂].

2.3 Theory of Harm 3: Horizontal concentration in PMI providers in Northern Ireland

Please see the separate paper in relation to this issue prepared by AXA Ireland.

2.4 Theory of Harm 3: Horizontal Concentration in PCWs

AXA supports the Commission's analysis of the horizontal concentration in PCWs.

[✂].

The growing popularity of consumer's use of PCWs has led to a rise in their importance. Please see AXA's response to the Issues Statement (as well as subsequent responses to information requests) for further information.

[✄]. PMI providers therefore have limited ability to constrain the pricing of the CPA fees or exclude MFNs, which the Commission has correctly identified as potentially increasing PMI premiums.

AXA re-emphasises the points raised in our response to the Commission's Issues Statement (submitted on 9 January 2013) that the horizontal concentration of the PCW's coupled with the use of MFN clauses could lead to dampening of competition and ultimately detriment to the consumer.

2.5 Theory of Harm 4: Analysis of Add-ons

In response to this working paper, AXA would ask the Commission to take note of the comments made by parties in the multi-party hearing on 16 July 2013, in regards to the FCA's investigation into the effective competition for add-ons products.

The contents of this working paper is very similar to the workings of the FCA and having regard to this, AXA questions whether there is a need and any benefit of the Commission continuing to look into the sale of these products further.

To avoid any unnecessarily duplication, AXA would prefer the analysis of add-on products to be continued solely by the FCA.

2.6 Theory of Harm 5: Impact of MFN clauses in contracts between PCWs and PMI providers

AXA supports the Commission's examination of the use of MFN clauses by PCWs as well as the recognition of their anti-competitive effects which could lead to potential harm.

AXA welcomes the Commission's decision to consider further the impact of wide MFN clauses on PMI premiums and other potential mechanisms which could be used to avoid the use of MFN clauses.

In addition to this, we would urge the Commission to continue to consider the potential anti-competitive impact of the use of own-website MFN clauses.

AXA would like to re-emphasise the points made in our response to the Commission's Issue Statement, namely that we consider the use of MFN clauses between PCWs and insurers as a serious issue that can have detrimental anti-competitive effects.

ANNEX 1

[✂]

Theory of Harm 3: Horizontal concentration in PMI providers in Northern Ireland

Introduction

The Competition Commission circulated a set of working papers during August 2013 in relation to their investigations in to the private motor insurance market in Northern Ireland ("NI"). This submission contains the responses for AXA Insurance Limited ("AXA Ireland") under each of the relevant headings to the above working paper.

AXA Ireland has reviewed the Theory of Harm paper issued by the Competition Commission on the 29th July 2013. We have outlined our response under each of the headings from the Theory of Harm paper.

AXA Ireland is a company registered in the Republic of Ireland and is regulated by the Central Bank of Ireland. AXA Ireland operates in both the Republic of Ireland and Northern Ireland on an EU Freedom of Service basis. Each of these markets has distinct legislative, economic and business environments. For clarity, AXA Ireland does not underwrite any business in any other part of the UK.

In the following response a reference to "we", "us" or "our" means AXA Ireland, unless otherwise stated.

All of the information provided in this response is strictly confidential and contains the business secrets of AXA Insurance Limited that have been accumulated over many years of operation. Accordingly, no information should be disclosed to any third party without the prior written consent of AXA Insurance Limited.

Background to supply of PMI in NI

<u>Estimated Market Size</u>

We used the same source as the Competition Commission in order to estimate the overall size of the market. Table 1.7 on page 27 of the same report indicates there are 870,439 cars licensed in NI. We would acknowledge that a number of these vehicles will not be insured through the PMI market. [✂].

<u>Distribution of PMI in NI</u>

[✂]. We would agree with the views expressed by the Competition Commission that whilst changes are occurring in the market (e.g. increase of PCWs) these changes are happening at a slow rate. The slow rate of change is linked to the desire of customers to deal locally and in person when purchasing insurance. We also believe that the broker channel will continue to account for a significant proportion of the PMI market in the short/medium term.

<u>Differences in Legal Structure</u>

AXA Ireland believes that the impact of the differences in legal structure on average premium levels should not be underestimated. The Association of British Insurers ("ABI") has indicated that 40% of claims in NI reach the County Court. The corresponding figure in England and Wales is less than 5% as claims below £5,000 are successfully handled by the Small Claims Court (where fixed costs are recoverable but not the cost of legal representation). In addition, legal costs are automatically attached to a claim in the County Court irrespective of the claim value and whether liability is in dispute or not.

The statutory County Court scale fees are disproportionate for high volume, low value cases e.g. a claim for recovery of a £100 policy excess will attract pre-proceeding costs of £351.33 plus VAT (£527 if proceedings issued).

The launch of the pre-action protocol earlier this year (as mentioned in the TOH paper) is to be welcomed. However AXA strongly believe that incentives and sanctions should also be introduced to improve its effectiveness.

Separate to the actual legal structure, the ABI also identified that the level of compensation awards are high in NI. Minor whiplash claims in England and Wales range from £500 to £2,000 whereas in NI these awards are more likely to be in the region of £8,000. The more severe whiplash cases range from £7,000 to £13,000 in England and Wales and from £17,000 to £35,000 in NI.

The Competition Commission should also be aware that the numbers of road traffic collisions that result in an injury are higher in NI than in other parts of the United Kingdom. Several factors influence this and will justify higher premiums, including: the higher proportion of single carriageway and rural roads; poor public transport; greater amount of miles driven (as evidenced by the Competition Commission's survey); and the higher proportion of young and inexperienced drivers due to the age profile of the population.

As a result of the above the cost of claims is relatively high and accounts for a large proportion of the total cost of an insurance product. This will lead to higher premiums in NI as compared to Great Britain.

Insurers Active in NI

AXA Ireland believes that the number of insurers writing PMI business in NI is substantially higher that the 17 indicated by the Competition Commission. There are a large number of brands in the NI market: 42 on PCWs and in addition other providers who do not appear on PCWs (e.g. AXA, Allianz and Direct Line). [✂]. We believe the market to be dynamic and there are recent examples of new entrants including Groupama, Aegas and Midas. Liberty has recently re-entered the market with RSA and Aviva also announcing their intention to grow substantially in the market place.

Why are some insurers not active in NI?

The Competition Commission has highlighted three main barriers to entry based on the feedback from other PMI providers (size of market, lack of underwriting experience and strength of broker channel). AXA Ireland are convinced that the main barrier to entry is the size of the actual market, estimated at less than 3% of the total UK motor insurance market. This relatively small market size does mean that the size of the opportunity is limited and we have noted that other PMI providers have indicated that the market is not economically viable and might not be worth the investment.

The barrier to entry caused by lack of underwriting experience exists in any new market that a PMI provider may be considering investing in. The issue can be overcome by a new entrant using some of the solutions identified by other PMI providers in this working paper. Underwriting experience is available in the market through the use of delegated underwriting authority.

AXA Ireland would not agree that the strength of the broker channel is a barrier to entry. [✂]. Indeed the recent evidence of substantial growth by Aviva indicates that the broker channel facilitates the speedy and cost effective entry of competitors to the market. [✂]. Similar opportunities are available to new entrants through UK wide price comparison websites.

The on-going civil unrest and the fact that the market is physically separated from Great Britain will continue to be barriers to entry.

Evidence of entry and expansion in PMI provision in NI

The Competition Commission has highlighted that AXA Ireland achieved the most significant growth in the NI market between 2006 and 2011. The Competition Commission have also listed some of the reasons behind this successful period of growth. [✂].

As previously stated we believe the market to be dynamic and there are recent examples of new entrants including Groupama, Aegas and Midas. Liberty has recently re-entered the market with a high profile mass media campaign with the objective of significantly increasing their market share. RSA and Aviva have also announced their intention to grow substantially in the market place.

The experience of AXA Ireland is that the market in NI has become more competitive over the last 12 months. Competitors have reduced their prices with Aviva being particularly active. [✂]. We believe this provides clear evidence that the market is dynamic and cyclical.

PMI Profitability in NI

The Competition Commission have determined that loss ratios in NI are ten percentage points below the equivalent figure for Great Britain and that this indicates a higher level of profitability in NI than Great Britain. AXA Ireland would state that this in itself is not an indicator that the NI market is characterised by “excess profits” as the Competition Commission will be fully aware that the PMI market in Great Britain has had poor profitability for a number of years.

To obtain a full picture of market profitability it would be important to ensure that the results of Quinn Insurance are included. While they would not have been operating in the NI market for the full five year period due to their administration, their results would have a meaningful impact on the weighted average claims ratio over the five year period.

AXA Ireland also believes that the explanations outlined by the Competition Commission for the differences between NI and Great Britain are valid and will contribute in some part to the lower loss ratio in the NI market. AXA Ireland does not use loss ratio as an indicator of profitability and we would suggest that the industry standard for monitoring profitability is 'Combined Operating Ratio'. The ratio will include all expenses and commissions in addition to the claims costs included in the loss ratio and then expressed as a percentage of the earned premium during the same period.

The effect of the strong broker position in the NI market is significant, with commission rates of up to 20% and additional profit sharing all having to be funded from premiums charged. This will automatically lead to loss ratio being lower than other markets where the broker channel is not as strong.

Brokers will also sell additional products (e.g. legal expenses and breakdown cover) and will have their own premium finance facilities. The profit from these will accrue to the broker and not to the insurer. Brokers may also receive administration fees for carrying out certain transactions (e.g. renewal, mid-term adjustments, etc.) and larger brokers also manage the first step of the claims notification process. All these activities generate income for brokers and are not available to insurers to contribute to the underwriting performance of the core PMI product.

[✄].

The Competition Commission have explained that a situation where the profitability of firms representing a substantial part of the market has exceeded the cost of capital over a sustained period could be an indication of limitations in the competitive process.

[✄].

[✄]. The number of casualties in motor accidents fell from 9,767 in 2009 to 8,957 in 2010 and 8,760 in 2011. This sustained reduction in casualties was different to the previous one off reduction seen in 2005 (source: NI Transport Statistics 2011-2012).

The NI market began to respond to the improved claims experience in April 2012 with price reductions. [✄].

.[✄]

We believe this provides clear evidence that the market is cyclical and that profitability has varied over time and that adjustments to premiums are made to allow for these changes.

[✄]