RESPONSE TO MSXI VEHICLE INSPECTION REPORT

1. Introduction and Executive Summary

1.1 This paper provides esure's preliminary response to the Competition Commission's ("**CC**") MSXI Vehicle Inspection Report, a working paper on the CC's Theory of Harm 2[1] (the "**MSXI report**"). As the CC is aware, esure is firmly of the view that at this time it does not have access to sufficient underlying information on the MSXI report for it to assess properly MSXI's findings.[2] **[CONFIDENTIAL]**

1.2 However, even on the limited available information from the MSXI report itself, esure considers it clear that the MSXI report can be expected to suffer from serious methodological limitations – namely due to the small sample size and method of selecting the sample – which make its results unreliable and might even materially bias these results. This is no doubt reflected in the findings of the MSXI report being totally at odds with similar evidence the CC has obtained in connection with Theory of Harm 2[3] and with esure's own evidence.

1.3 esure strongly considers that these flaws are of such a magnitude that the CC cannot accord any evidential weight to the MSXI report in the context of its investigation of Theory of Harm 2.

1.4 esure's primary concerns with the MSXI report are as follows:

(i) First, as is recognized by the CC, the sample size is too small to allow for any statistically significant conclusions to be drawn.[4] In particular, as noted in esure's previous submissions, when esure has conducted similar exercises with significantly larger sample sizes, the proportion of repaired vehicles found to be sub-standard is significantly smaller.[5]

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[1] Theory of Harm 2 being the harm arising from the beneficiary of post-accident services being different from and possibly less well informed than the procurer of those services (CC Annotated Issues Statement, 27 February 2013).

[2] As outlined in correspondence from esure's legal advisers, Slaughter and May, to the CC on 11 November 2013.

[3] See CC's working paper "Theory of Harm 2": Under provision of repairs": the CC's previous conclusion was based on evidence of the standards insurers impose on their repairers and the audit process carried out by those insurers (paragraph 55), evidence on the quality of paints and parts supplied in a repair (paragraph 71), evidence from its non-fault customer survey (paragraphs 74-77) and GIMRA's survey on customer's satisfaction with repair quality (paragraphs 80-82) and evidence on the lack of customer complaints on repair quality (paragraphs 83-87).

[4] See MSXI report, Slide B.

[5] See, for example, esure's response to the CC questionnaire, submitted 9 May 2013, question 21. In each of the last three years esure has found that vehicles were not in a good condition post-repair in **[CONFIDENTIAL]** of the tests conducted, and the sample size was **[CONFIDENTIAL]**.

(ii) Second, there is a substantial risk that biases may have been introduced as a result of the process by which the sample was selected – and in particular may have biased the sample towards customers who were concerned about the quality of their repair, and more complex and/or substantial repairs.

(iii) Third, esure's concerns about the sample selection are also evident in the discrepancies between the responses in the vehicle selection sample used by MSXI, compared to the overall responses in the CC's survey: while only 11% of the respondents to the CC's non-fault survey found that their vehicle was in worse condition after the accident,[6] 20% of the respondents who were selected for the MSXI report thought that their vehicle was in a worse condition – almost twice as high a proportion as the survey sample.[7]

(iv) Finally, the way in which the MSXI report classifies the results by way of a binary classification of post-repair vehicles as being either in a Pre-Accident Condition ("**PAC**") or not, will also have an impact on the interpretation that can be placed on its conclusions. In particular, non-PAC classified vehicles may have in fact exhibited only minimal differences between the post-repair condition and the PAC, in a way which the MSXI report does not allow to be evaluated. More common industry classifications, measuring percentage of deviation from the PAC, would have recognised minimal deviations in a way that the MSXI report's crude methodology does not permit.

1.5 In its prior assessment of Theory of Harm 2, the CC found that "it appears to us [the CC] unlikely that customers are systematically put at a disadvantage by insurers or CMCs procuring repair services on their behalf".[8] The CC reached this provisional conclusion after analysing carefully an extensive range of evidence including: its customer survey; the monitoring of repairs; the standards adhered to by insurers; and customer feedback on repairs. The CC has confirmed all these data suggest that there was no evidence that the quality of repair services is substandard.[9] Given the apparent extreme methodological flaw and limitations of the MSXI report, it is esure's view that this report does not provide a sound evidentiary basis for departing from the substantial body of evidence the CC has already analysed in connection with Theory of Harm 2.

2. Sample selection

2.1 It is clear from the data that the sample used in the MSXI report has resulted from multiple stages of selection. While esure has not been given access to sufficient

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[6] See CC Survey Report, figure 3.59.

[7] MSXI report, slide 23.

[8] See the CC's working paper "Theory of Harm 2: Underprovision of repairs", paragraph 2.

[9] See the evidence set out in footnote 3.

information to assess fully the sample selection process at each of these stages, there are nevertheless strong indications that the final sample used by MSXI is likely to have been biased towards customers who were concerned about the quality of their vehicle repair.

2.2 In particular, esure understands that the study sample has resulted from the following multiple selection processes:

(i) first, drivers who responded to the CC's non-fault survey report were asked, at the time of the survey, whether they were prepared to have their vehicle inspected at a later date by a professional assessment firm appointed by the CC (an imposition on the driver's time).[10] As is clear from the CC's survey data, drivers who were concerned that their repaired vehicle was in a worse state than prior to the accident were more likely to accept an inspection than customers who thought their vehicle was in the same, or better, state;[11]

(ii) second, the CC requested MSXI to choose vehicles based on their ability to assess their condition post-repair.[12] esure understands that MSXI has done this by "prioritizing" the data according to the type and scale of repairs and MSXI's opinion of its ability to assess the repairs from documentation provided.[13] While, the data currently available to esure does not allow it to conclude categorically whether this has in itself led to any bias, esure believes that this type of prioritization is highly likely to have led to biases in the results. In particular, if MSXI selected repairs where more documentation was available, this may have biased the sample towards repairs that were more complex and/or substantial; and

(iii) finally, even after initially accepting to have their vehicle inspected in the survey, only 71% of the drivers who were contacted ultimately agreed to have their vehicle inspected.[14] As above, esure does not have sufficient information at this time to assess whether this has resulted in any bias, but it is obvious that just as drivers who thought their repaired vehicle was in a worse condition were more likely to accept an inspection during the "Not-At-Fault" survey, this would equally be the case when drivers were actually contacted for this inspection.

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[10] See MSXI report, slide B.

[11] See CC Not-at-Fault Survey tables, tables 74 and 128.

[12] See MSXI report, slide B.

[13] See MSXI report, slide 7.

[14] See MSXI report, slide 11.

2.3 It is esure's view that, without careful consideration to ensure reliable sample selection, each of these steps is very likely to have resulted in a bias towards selecting vehicles that were more likely to be in non-PAC. In the absence of any indication of steps being taken to rebalance properly the sample after each of these selection steps, it seems very likely that the sample of vehicles for which inspections were undertaken is likely to be biased to such an extent to make it completely unreliable.

2.4 This is borne out by, *inter alia*, the following apparent findings in the MSXI report:

(i) the proportion of drivers who thought that their repaired vehicle was in worse condition after the repair is substantially higher than the equivalent proportion for results of the CC's non-fault survey as a whole: only 11% of the respondents to the CC survey stated that their vehicle was in worse or far worse condition after the repair than before the accident,[15] yet this proportion is almost twice as high in the sample selected by MSXI for its inspections (20%).[16]

(ii) 48% of the vehicles inspected had to be subsequently rectified after the initial repair.[17] esure believes that this is an unusually high proportion of rectified vehicles and significantly higher than its own experience across a vast number of repairs.

2.5 esure believes that these erroneous findings are very likely to be due to the underlying bias in MSXI's selection process. Given that this bias relates precisely to the question that is being asked by the CC, esure is surprised that the CC did not find it necessary to address this issue in the MSXI report. In this context, it is therefore not surprising, and indeed tautological, that the MSXI report concludes erroneously that a significant share of vehicles in its sample were not in PAC after its repair.

2.6 As noted above, the sample bias in MSXI report is very likely to be responsible for the erroneous results which it apparently finds. In particular, its findings contradict directly:

(i) evidence available to esure and submitted to the CC from its own vehicle repair inspections, where **[CONFIDENTIAL]** of the repairs inspected in 2012 were found to be above esure's agreed deviation limit;[18] and

(ii) the CC's own findings in its previous working paper on underprovision of repairs, where, after analysing substantial data from its not-at-fault survey and all insurers in the UK, the CC found that "it was unlikely that customers are

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[15] See CC Customer Survey report, figure 3.59.

[16] See MSXI report, slide 23.

[17] See MSXI report, slide 21.

[18] See esure's response to the CC questionnaire submitted 19 April 2013, paragraphs 21.4 and 21.5.

systematically put at a disadvantage by insurers or CMCs procuring repair services on their behalf".[19]

3. Classification of repair standards

3.1 A fundamental difficulty in providing a commentary on MSXI's report arises from the fact that the MSXI report does not set out clearly the criteria that were used to classify a vehicle as being in its PAC. For this reason, on the available facts, esure simply is not able to comment on the underlying soundness of the analysis undertaken by MSXI (and, again, this is why esure has requested access to information underlying the MSXI report).

3.2 However, even on the limited information available to it, esure is concerned that, as acknowledged by MSXI, the inspections that were carried out are "opinion based" and "were not carried out under scientific or workshop conditions".[20] This is in stark contrast with the vehicle inspections that esure regularly carries out on its own repairs, where a detailed and structured audit is conducted and where all aspects of the repair are analysed. It is not clear to esure why a more rigorous approach was not also employed by MSXI.

3.3 Furthermore, esure considers that the MSXI report also substantially deviates from the standard industry practice, by classifying vehicles on a simple binary (PAC versus non-PAC) scale. A more sophisticated, and thus more informative, approach would have been to assess the vehicle state versus its PAC and calculate the relevant deviation.

3.4 esure's own experience is that the standard expert approach in the motor repair industry is to assess carefully a vehicle's repair relative to the vehicle's estimated PAC and score each repair between 0 and 100%[21], based on standard practice criteria.[22] **[CONFIDENTIAL]**. In addition to allowing a more sophisticated assessment of repair quality, having regard to the inherent inability to assess a vehicle's PAC after the accident has taken place, this approach also allows for the inspection to provide some leeway against these measurement inaccuracies. esure is surprised and disappointed that MSXI – who hold themselves out as experts in consulting on motor vehicle repairs[23] – do not appear to have adopted a more sophisticated approach that would allow for such considerations to be taken into account.

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[19] See CC's working paper "Theory of harm 2: underprovision of repairs".

[20] See MSXI report, slide 41.

[21] Where a score of 100% would indicate that the vehicle is in the exact same state post-repair as it was estimated to be prior to the accident.

[22] See esure's response to the CC questionnaire submitted 19 April 2013, paragraphs 21.4 and 21.5.

[23] MSXI report, slide 4.

3.5 For this reason – and for all the other reasons set out above – on the basis of the information available to it at this time, esure considers that the MSXI report is sufficiently flawed and biased that the CC cannot reliably place any evidentiary weight on it in the context of its market investigation.

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