



Aviva Response to the Competition Commission Investigation into Private Motor Insurance "Provisional Findings"

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1 Contact Details

This response relates to the Competition Commission's (**Commission**) investigation into private motor insurance (**PMI**) and the Commission's **Provisional Findings** dated 17 December 2013.

If, at any stage, Aviva can assist the Competition Commission further please feel free to contact either:



2 Aviva's Response to the Provisional Findings

2.1 Executive Summary

Aviva has considered the provisional findings and the Competition Commission has identified two markets and the issues that are affecting the operation of those markets. In terms of markets it is arguable that accident management companies form their own distinct market and they are not part of the supply chain for the motor insurance market in our view.

The claims farming in the private motor market for non-fault claims so as to offer or provide post- accident services or to refer a personal injury claim is a significant factor in the market and has a distortive effect on competition due to the incentives that presently exist and the way the market operates. Aviva is supportive of any steps that can be taken to improve the position for customers and remove incentives.

Aviva feels it has consistently managed its approved repairers with regards to quality. Aviva believes there is a risk that conclusions are made based on statistically inaccurate data. Aviva supports any remedy that will improve customer confidence and quality, but this has to happen in a number of areas that will combine to provide a lasting remedy

On PCW's AVIVA agrees with the Competition Commission's Provisional Findings that MFN clauses have a distortive effect on competition. However unlike the Competition Commission, Aviva also considers that narrow, as well as wide, MFN clauses are inherently problematic and soften competition.



2.2 Theory of Harm 1: Separation of cost liability and cost control

Aviva has considered the conclusions set out at 6.64 and considers that there are aspects of the findings that the CC should consider further which are not quite correct.

The provisional view that any revenue reduces premiums by off-setting the higher premiums attributable to higher subrogated costs does not fully take into account that claims management companies are not always appointed by insurers. In many claims the CMC acts unilaterally in providing services to the non-fault party and directly derives revenue for themselves. As a result they will pay referral fees to lawyers or repairers who have captured the claims details before an insurer or broker.

These firms are operating outside of the private motor market definition outlined by the Competition Commission and as a result any higher cost claimed on those claims is not in anyway used to off-set premiums but to derive revenue for their own gain. This is partly referenced by the CC in 4.32 and has not been fully identified and set out in the provisional findings.

As a result the off-set is less than pro-rata referenced in 6.59 and in 6.55 and 6.56 the revenue directly taken by a CMC is not being taken into account or referenced sufficiently.

In 6.22 Aviva would highlight that repairs managed by a CMC will unless remedied rise further as a result of the *Coles v Hetherton* court of Appeal judgment, which has in broad terms opened the opportunity for a non-fault insurer to claim costs in excess of the actual costs incurred as the measure of loss is the reasonable cost of repair to the non-fault party and not the managed cost of the insurer applying its negotiating power.

2.3 Theory of Harm 2: Possible under provision of service to those involved in accidents

Aviva's view on the findings of the Competition Commission, with regards to Theory of Harm 2, following a visit to the data room is as follows:

Aviva feels it has consistently managed its approved repairers with regards to quality. As stated in our earlier submissions Aviva mandates PAS125 accreditation and endorses Vehicle Manufacturers approval criteria, which is generally considered to be of a higher standard, as a requirement for repairers appointed onto the Aviva network (with the exception of remote areas where choice of repairers is limited).

Furthermore, Aviva was one of the first insurers to mandate this standard within our network. Solus the Aviva wholly owned repairer business was the first repairer group to achieve PAS 125 accreditation across all sites. All Aviva approved repairers are responsible for carrying out repairs to the highest standards and we strive to manage quality through engineer site inspections and audits. Where Aviva identify issues in terms of performance we will work with the repairer in an attempt to address the root cause and only if all other methods fail will we look to terminate our contracts with the repairer.

Aviva believes, based on the small sample size and methodology of sample selection and process of inspection, there is a risk that conclusions are made based on statistically inaccurate data and does not evidence an under provision of service below the legal standard as referenced in the findings. The sample size needs to be taken into account when considering any remedy, to ensure that any remedy that is ultimately recommended is not disproportionate in relation to the actual scale of the issue.

Aviva supports any remedy that gives improved information and transparency to the customer regarding the quality of repairs regardless as to which repairer is used or who appoints the repairer. Aviva, subject to our comments above, does not in the majority of cases disagree with the MSXI's assessment. Our review of the data contained within the files in the data room generally concurs with the quality issues identified, although there are cases where due to the quality of the images provided it has been impossible to come to a final conclusion. E.g.Naf0336 (a level 10 damage severity) where the repair was identified as a good repair but MSXI has stated there is an issue with the blending of paint. This could not be verified from the pictures. We feel it is important to point out once again that none of the vehicles inspected demonstrated that there were any unsafe repairs.

The data provided did not allow for identification of whether the repairer was within an insurer approved network, non network, PAS 125 or otherwise approved. This makes it difficult to assess how much influence the insurer or the customer had on the repairer selected within the sample size. We believe therefore that this data set and findings is very limited and is not robust enough to say with any statistical certainty whether the quality issues are related to an insurer appointment or a general repairer problem.



That said, if the Competition Commissions believes that there is an industry wide quality issue Aviva considers that a remedy of appointing an industry wide quality assurance method, mandated through an enforcement order, may not by itself address the root cause of such an issue.

Quality within the repair industry is a complex issue and one where combinations of many levers are able to influence the outcome. Much has been said about insurers driving cost down and the use of non original parts, manufacturer repair networks mandating original parts at high cost, but little has been said about repairer practices, such as the industry standard technician remuneration method aimed at driving efficiency and productivity, normally referred to as time saved bonus.

This reward mechanism works by taking the approved hours intended to carry out the repair and where a technician can carry out the repair in a shorter time period; he or she will be paid the saved time in the form of a bonus, so the repairer drives speed, therefore efficiency and the technician gains additional income. This in our view could lead to corner cutting if the repairer is not vigilant with regard to final quality checking QA.

Aviva therefore feels that any remedy aimed at addressing what appears to be an industry wide quality issue, needs to encompass all aspects of the problem and simply holding insurers accountable for the end result via quality audits without any other measures upon repairers to address the causes of failure will merely drive re-work and therefore cost into a less than perfect model and ultimately into higher insurance premiums.

By way of illustration of the many and complex factors Aviva feels merit further consideration, the Competition Commission should consider with the insurance and repair industry in any remedy the following points:

- Safety, integrity and future performance of vehicle repairs is paramount
- The quality of the repair should be of a standard to not negatively impact vehicle resale value
- Insurers need to offer competitive premiums therefore repair costs need to be cost -effective
- Vehicle manufacturers are increasing complexity of build and components to drive economy and safety, thereby also increasing cost of repair.
- Repair involves human intervention to rectify damage to something which was manufactured to exacting tolerances, so slight variances in quality may be unavoidable
- Repairers need to make sufficient profit to stay in business and invest in developing technology and skills (repair technicians are an ageing workforce with limited numbers of new talent entering the industry).
- Other players have entered the market (accident management companies, claims management companies) and are taking income from a limited pot of funds, often driving labour rates and discount rebates aggressively.
- Repair technicians are incentivised to work quickly through time saved bonus



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- Repairers and work providers are looking to repair methods to remain competitive, through use of OES and non OE parts, or increasing repair over replace activity
 - The customer wants the right of choice regarding the repairer to be used, which can limit the amount of influence or control that the insurer has over quality of the outcome.
 - The customer will also require a say in the process from time to time, for example where an economic total loss can be saved by fitting used parts, which may impact the end quality of the repair.

Aviva believes all of these factors impact repair in today's market to a greater or lesser degree, therefore if the Competition Commission feels a far reaching remedy is required, it is important that any such remedy involves insurers, vehicle manufacturers and repairers, and is applicable across the whole market and that it is developed with consideration to safety, quality and the needs of the main market players to ensure we have a sustainable repair industry to fulfil our customers needs for the foreseeable future. Aviva supports any remedy that will improve customer confidence and quality but this has to happen in a number of areas that will combine to provide a lasting remedy.

2.4 Theory of Harm 5: Price Comparison Websites and MFN Clauses

Aviva agrees with the Competition Commission's Provisional Findings that MFN clauses have a distortive effect on competition. However unlike the Competition Commission, Aviva also considers that narrow MFN clauses are inherently problematic and soften competition for the reasons articulated below.

1. Circumvention risk

Aviva believes that the removal of wide MFN clauses in isolation will not lead to increased competition. There is a high risk of circumvention where :

- there is no common definition of MFN clauses, either 'wide' or 'narrow'
- there is an imbalance in the buyers' and purchasers' relative power. In this regard, it is important to note that considerable market power rests with the four largest price comparison websites, and this has continued to grow¹ in recent months. [X] Aviva believes de-listing insurance providers by PCWs is a credible method of circumventing MFN clauses when each of the 'Big 4' PCWs has over 100 insurance providers on their sites.

2. Reduced innovation

The Competition Commission has highlighted the way in which MFN clauses have acted to support the price comparison website business model. However, the economic benefit of this protection is not proven, particularly in relation to the 'lost opportunity' that new and innovative new distribution channels could offer consumers.

Aviva is of the view that any continuation of 'MFN' clauses will serve to limit innovation in the distribution of private motor insurance. There are few examples of innovation in the price comparison model over the last 5 years, notwithstanding the fact there are 4 competitors of scale. Furthermore, innovation in the distribution of private motor insurance outside of price comparison websites has not taken significant hold since the emergence of PCWs, and Aviva doubts this will emerge if MFN clauses are retained, to the detriment of consumer choice and competition. By way of example of what might emerge in the UK market if competition was stronger, in Germany Friendsurance.de has successfully developed a distribution model based on social media and crowd-sourcing.

[X]



3. Competitive dynamics of distribution have been reduced

Aviva believes the continuation of narrow MFN clauses and the problems with defining exactly what constitutes a narrow clause will inhibit the emergence of distribution channels with lower distribution costs. For PCWs to be a force for good in competition, they have to be able to demonstrate they can also compete on cost with other distribution channels. By retaining narrow clauses, this effectively gives PCWs an in-built advantage against any potentially new distribution channels.