

COMPETITION COMMISSION: PRIVATE MOTOR INSURANCE MARKET INVESTIGATION

RESPONSE BY COPART UK LIMITED TO THE NOTICE OF POSSIBLE REMEDIES (17 DECEMBER 2013)

Introduction

Copart UK Limited is the UK subsidiary of Copart, Inc. Copart Inc. was founded in 1982 in the USA, is listed on NASDAQ with a market capitalisation of c. \$4.5bn and is a leading provider of online vehicle auction remarketing services in North America, the UK, mainland Europe, Brazil and the Middle East selling around two million vehicles last year worldwide. Copart UK is the largest provider of remarketing and salvage services to the UK motor insurance industry, and deals with a large proportion of the estimated 600,000 annual vehicle write-offs in the UK.

Copart entered the UK market in 2007 and operates 15 facilities for vehicle sales throughout the UK. Copart entered the UK salvage market with a long and successful track record of delivering value to motor insurers in North America, through a marriage of efficient process and great technology and seeing an opportunity to do so in the UK. Since 2007 we have sold over 1 million salvage vehicles at auction in the UK alone.

The best functioning salvage market achieves the highest possible value for each piece of salvage for insurers thus minimising claims costs. In addition, the slicker the process, the less transactional and frictional costs there are for insurers as well as the less vehicle depreciation there is, thus minimal asset degradation.

Since 2007, as a result of Copart's entry to the UK market, the motor insurer treatment of salvage has moved to commercial arrangements that are more lucrative for the insurer (and therefore reduce claims costs) by focussing the insurers return on the salvage value of the vehicle to its next owner rather than

some notional fixed value provided by the salvage industry. This has, in effect, moved margin from the salvage industry to the insurer (and consequently benefited the consumer). Such an approach has sharpened competition and also seen the insurer benefit from advances in internet auction technology and the other benefits that Copart UK has brought to the marketplace.

Copart's customers have seen a material increase in the value of salvage to them as a result and in addition Copart has invested in sharing best practice and process thinking to help insurers reduce claim cycle times therefore reducing their cost of processing claims and further improving asset value through shorter time to sale and therefore minimising asset depreciation.

Therefore, the insurer has a vested interest in the value achieved for its salvage at auction and this approach has driven very positive behaviour in insurers who have an appetite for best practice, their one key focus being moving the vehicles through the process as quickly as possible to result in minimum cost.

The commercial arrangements are typically that Copart takes a fee from the insurer for such a service, either a fixed fee or a fee that is calculated as a percentage of the sale price of the salvage vehicle at auction. Referral fees are not paid by Copart to motor insurers for salvage vehicles. Referral fees are normally requested by those handling third party salvage such as CMC's, vehicle examination engineers, CHC's and other 'intermediaries'. They are a relatively minor proportion of Copart's customer base and we estimate account for no more than about 10% of the total loss vehicles. We have inferred from the Competition Commission's Notice of Possible Remedies that the CC believes that payment of referral fees is more widespread than that and extends to motor insurers. We wish to respectfully point out that in our experience it does not.

Copart believes, with this background, that we are well placed to comment on the Competition Commission's Notice of Possible Remedies, and in particular those remedies affecting vehicle write-offs and salvage and the likelihood of them driving further efficiencies and improvements in the salvage market. Copart believes that any remedy must enable insurers to continue to benefit from the increasing

the value of salvage and so reduce their claims costs but also make sure that processing costs are minimised.

We wish to comment, firstly, to correct what seems to be a misunderstanding behind possible Remedy 1G (prohibiting referral fees), and then, secondly, on the practicalities of possible Remedy 1E (measures to control non-fault write-off costs).

Possible Remedy 1G (prohibiting referral fees)

Object (b) of this possible remedy is stated to be to prohibit referral fees or commission being paid by salvage companies to non-fault insurers. As stated above, we believe this may be based on a misunderstanding. In our experience, it is the insurer who pays a fee to the salvage company for the value it receives for services of the salvage company, not the other way round. We are not, therefore, able to understand how referral fees by salvage companies can be a material factor in decisions by insurers, including non-fault insurers.

Possible Remedy 1E (measures to control non-fault write-off costs)

In our view, neither of the proposed remedies work particularly well. Of the two possible remedies proposed we think one is feasible but that the other will create more difficulties than it will solve.

Possible Remedy 1 E (a) (at-fault insurers to be given the option to handle the salvage of non-fault vehicle write-offs once the pre-accident value (“PAV”) of the vehicle has been agreed)

Copart believes it is advantageous to the ‘at fault’ insurer to have the option of controlling salvage in the manner suggested. This rewards the insurer who maximises the value of salvage at disposal and enables them to use that value to reduce their claims costs. Copart believes that this option would therefore be attractive to them where they believe they would achieve more value than the ‘non fault’ insurer.

However, for the option to be viable, any costs of transfer between insurers' suppliers would need to be minimised. This requires very early agreement of PAV and of liability. That could lead to PAV being set too high, without proper regard being given to vehicle condition, for example. That would inflate the 'at fault' insurers claims costs regardless of the value subsequently achieved for salvage.

In addition, other transactional costs could be incurred that would reduce or even eliminate the viability of the option being taken up, for example the vehicle either having to remain with the recovery garage for longer than it would otherwise remain or having to be transferred from the non fault insurer's salvage company to the at fault insurer's salvage company.

We see that this remedy's effectiveness relies on the proportion of vehicles on which the option is actually taken up. Therefore that requires the slickest possible exchange of information between insurers to enable any such decision to be made.

Possible Remedy 1 E (b) (either all insurers to use actual salvage proceeds, or subrogated claims on the at-fault insurer which are based on estimated salvage value to be adjusted up or down once actual salvage proceeds are received)

From the salvage company point of view we think this option is likely to be problematic, and disproportionate to the problem it is seeking to address (which is that estimates by insurers are "sometimes" set too low). Our expectation is that there will be an extra cost of accounting for the actual salvage proceeds and it is our belief that insurers will impose this extra on salvage companies themselves. The salvage companies will then be put in the position of having to provide additional information to insurers that will itself become an element in the claim process, leading to longer claims times and also a factor in any disputes that might arise between insurers and will lead to a reduction in the overall salvage proceeds recovered once additional administration costs have been taken into account. That would see an increase overall in the cost of claims.

In addition, we have concerns that providing hard data on salvage proceeds on a large scale to all (or a large proportion of) insurers will allow too much price and cost sensitive information to be shared between competitors in the salvage and insurance industries.

Making an initial payment to the policyholder and a further adjustment payment up or down once the vehicle has been sold would also add additional administrative costs into the claim for Insurers. It is our belief that Insurers would probably not make an initial payment if they thought there would be a possibility that they would have to recoup part of this from their policyholder, leading to either low initial claim payments being made or potential delays to the time when the full claim payment to policyholders is made until the actual salvage proceeds are known.

Conclusion

Our preference is to address the problem by means of possible Remedy 1 E (a), above, and to review the position after a suitable period of time to see if this remedy has had a positive material effect. If there then still remains a material issue of some insurers under-estimating salvage values we suggest that alternative remedies should also be explored. For example, we have developed a salvage value estimation tool that is likely to provide more accurate estimates, which, if necessary, could be made available to insurers and others, on a commercial basis.

17 January 2014