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## Private Motor Insurance Investigation

Response to Provisional Findings

### Section 6 - Separation of cost liability and cost control

Kindertons Accident Management

7 February 2014

**Note** – This document must be read in conjunction with  
(a) our response to Appendix A6(1) dealing with the cost of  
replacement cars, and (b) our response to the CC's Remedies Notice

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## Introduction

We thank the Competition Commission (CC) for giving us the opportunity to respond to the Provisional Findings by 7 February 2014. We have endeavoured to meet the CC's deadline for this response, but as the CC develops its thinking we reserve our position to make additional points, representations and submissions.

The CC will note that we have real concerns with regard to its current version of the provisional findings which feed through to the proposed remedies. We have given reasons for our views, and we believe the evolving CC report ought to note our concerns, and how the CC has dealt with the issues identified.

This document is confidential for the CC's attention, [ REDACTED ].

This submission will be structured in **two parts**, one addressing the CC's Appendix A6(1) which is a very important document; and another addressing Section 6 of the Provisional Findings Report.

At the highest level, dealing with the substance of the CC's work to date in the matters covered by this response, we believe [ REDACTED ].

[ REDACTED ].

## Response to the paragraphs in Section 6 of PF –

### Separation of cost liability and cost control

Similar to our introductory comments in dealing with Appendix A(6)1, (which was written to support the CC's work as shown in Section 6), we note there are high level points of disagreement between us and the CC on the nature of its analysis in this Section 6. We note such issues here, [ REDACTED ].

We also draw the CC Panel's attention to our Response to Remedies which also have significant impact on the contents of **Section 6** and its supporting Appendix A6(1). Specifically [ REDACTED ].

At this point we would like to state the **key areas of concern**, which run through Section 6 as follows:

1. There is a distinct lack of acknowledgement of the role that CHCs play within the Insurance industry and little appreciation of the benefits it provides to all stakeholders. Where we think this is fundamental, [ REDACTED ].
2. There is a constant theme of [ REDACTED ].
3. [ REDACTED ].
4. [ REDACTED ]. We know our value as a sector to some 300,000 drivers a year, so we do not accept comments saying the CC was told about this. [ REDACTED ].
5. We note some narrative, e.g. around tables is almost impenetrable with text written in a way we can not follow, and relying on data which is excised to the point we can not comment. Similarly, some narrative around economic theories is written in a way that is not clear to understand the purpose of the narrative and the steps involved to the final conclusion. [ REDACTED ].
6. Similarly, footnotes are used to hide important information in our favour. We want all footnotes to be justified. [ REDACTED ].
7. [ REDACTED ].
8. We have strong disagreement with the CC on the work it has done in section 6 (based on table 6 and Annex A of appendix A6(1)). [ REDACTED ].

9. We disagree with the CC's thinking on frictional cost, duplicated cost, and bad debts. We have counterviews on these areas in the relevant sections of our Response to Appendix A6(1) and section 6. [ REDACTED ].
10. We do not accept that direct hire is in any way comparable to our credit hire activity. Direct hire is the inferior service provided as an agent to insurers, mainly for the captured non-fault claimants (around 24% of all claimants). Credit hire is a service provided, at no charge, directly to hundreds of thousands of non-fault claimants (75 per cent of all claimants). We provide our arguments on this in great detail throughout this response. [ REDACTED ].
11. We do not believe the CC has done [ ✂ ] work on its Direct Hire alternative model. [ REDACTED ]. Our CHC model, in contrast is tried and tested, with the industry's backing via the GTA.
12. The CC has failed to recognise the importance and value of the GTA framework in controlling costs and ensuring there is no over-charging from CHCs and CMCs to at-fault insurers. In this connection, there are penalties when insurers do not settle promptly [ ✂ ]. We believe the GTA should be strengthened by formal endorsement, by the CC under its remedy 1C,
13. [ REDACTED ].
14. [ REDACTED ]. On the one hand, the CC seems to accept the value of what we do [see e.g. para 6.66 to 6.69, and 6.81], but on the other, downplays the value of our work for multitudes of people (at no charge), when it comes to considering its options in paras 6.87 to 6.90.
15. [ REDACTED ].

As we now move through Section 6, we will show the CC's relevant text in blue, and then show our comments therein. In this connection, a table of contents would have been helpful in this 40 page document, and this is urgently needed.

There are key areas within the Section, in which we have significant concerns, and our comments may also relate to issues with other paragraphs within the report. These key areas are contained within the following sections:

- |             |                                  |
|-------------|----------------------------------|
| 6.1 to 6.3  | Introduction                     |
| 6.4 to 6.11 | Effects and extent of separation |

6.12 – 6.28	Effects of separation on insurers and brokers cost and revenue
sub-group 6.13 – 6.18	Cost and revenue effects: replacement cars
sub-group 6.19 – 6.27	Cost and revenue effects: repairs
6.28	Summary of cost and revenue effects
6.42 etc	Implications for consumers of separation
6.53 etc	Conclusion on the impact of higher cost on motor insurance premiums
6.55 etc	Revenue stream to non-fault insurers and brokers
6.66 etc	Direct quality of service benefits to consumers
6.70 etc	Estimation of the effect of separation on consumers
6.86 etc	Effects on competition
6.91	Provisional conclusion

### ***Introduction - separation of cost liability and cost control***

*6.1 As we have described, under tort law, a non-fault driver is entitled to compensation for their loss from the at-fault driver through the at-fault driver's insurer. Separation of cost liability and cost control ('separation') occurs because cost liability lies with the at-fault insurer, whereas cost control lies with the party managing the claim, which is usually different—for example, the non-fault driver's own insurer or a CMC. Sometimes, however, there is not separation as the at-fault insurer is able to 'capture' and manage a non-fault claim itself.*

*6.2 In this section, we first describe the nature and extent of separation. We then discuss how it affects insurers' costs and revenue streams. We consider whether separation is associated with differences in the quality of service received by claimants;<sup>1</sup> then we discuss its effect on consumers. Finally, we set out our provisional view on the effect on competition.*

*6.3 In assessing the effect on competition, we considered a benchmark 'well-functioning market' to be a market which delivered consumers' legal entitlements in an efficient way. We therefore looked at two dimensions: (a) how separation affects insurers' costs and revenue streams and ultimately its effect on the price paid by consumers; and (b) differences in the quality of service received by claimants that were associated with separation to understand any impact of separation on the quality of service received by consumers. <sup>2</sup> We took both into account in reaching our provisional view on the effect on competition.*

Although this para appears non-controversial, very quickly [ REDACTED ]. In the context of CHCs/CMCs we do not agree that this cost separation issue is of any concern. The CC will note that we do not accept its thinking on AEC1. So this whole issue is an open debate, and is not settled yet, until the final report, when the CC is expected to express its conclusions.

[ REDACTED ]. We do believe we provide an excellent service with clients and insurers.

[ REDACTED ] we are mediators/facilitators for our clients, the large percentage of non-fault claimants (say 71%) that are not captured by the at-fault insurers.

Under 6.3(b) we see the CC suggest a quality gap. We disagree that Credit Hire is equal in range and service to Direct Hire, which is a new service that the CC seems to be promoting throughout the Provisional Findings. Direct hire is an opaque **agency service** to some unnamed insurers at apparent 'low cost' for low service to captured customers. Credit hire is a full claims management service, provided for free, and independent of the at-fault insurers. The CHCs are responsible to the non-fault claimants, and the larger CHCs operate under the GTA protocol. This is the sort of neutral narrative that we expect to see in this section of the PF.

Our service is needed, when insurers do not capture non-fault claimants, and our service is valued by hundreds of thousand of people receiving our service for free. We take the full risk from processing the claim, and we reject many unsatisfactory claimants at our own costs. [ REDACTED ] the service and value that we provide. [ REDACTED ] In the absence of CH, we believe the DH model promoted by the CC would be an inferior service to only captive claimants of the at-fault insurers. Everyone else, around 75% of claimants, according to the insurers, comprising hundreds of thousands of people would be left to fend for themselves, under the CC's remedies proposals. [ REDACTED ].

We note para 49 in Appendix A6(5) appears to acknowledge our value to the public but this important text does not appear in Section 6, as follows:

- *“CMCs/CHCs do not require upfront payment of their hire charges and provide interest-free credit against those charges, which are recovered from the at-fault insurer, thus effectively providing non-fault drivers **with risk-free mobility (ie use of a replacement car at no charge)**. This is of **particular importance** where liability is **uncertain** or disputed by the at-fault insurer, because under this scenario, it is **unlikely that the at-fault insurer will capture** the non-fault driver and meet their mobility until liability has been formally settled”*

That is a key service benefit, which should be acknowledged for the roughly 300,000 claimants served by our CHC sector, each year. The above CC text (without any footnotes) should be included here at the beginning of Section 6, and also at the beginning of App A6(1). The number of claimants benefitting at around 300,000 a year should also be mentioned with this text. Without our service, at-fault insurers could easily turn away a multitude of people, and the CC's preferred Direct Hire model would not help these victims. [ REDACTED ].

*Footnote 1 In this section, we are concerned only with the impact of separation on quality of service. In the next section, we consider overall level of quality of service relative to claimants' entitlement.*

*Footnote 2 In this section of the report, we are concerned with any differences in quality of service associated with separation. In the next section, we consider whether the quality of service provided to claimants is in line with their legal*

We believe the text in the footnotes should be incorporated into the narrative.

## **Effects and extent of separation**

*6.4 A company managing a non-fault claim will take over the non-fault driver's right of recovery against the at-fault insurer (see paragraphs 3.7 and 3.8). In practice, this involves sending on a bill to the at-fault insurer for services provided to the non-fault driver (a 'subrogated' bill—see Section 3). The party managing the claim will be able to recover the costs passed on to the at-fault insurer provided they are 'reasonable'. Case law suggests that the benchmark used for a reasonable level of costs is to be assessed from the point of view of the claimants if they were procuring services directly. This may be above the actual level of costs incurred by companies managing claims such as non-fault insurers and CMCs/CHCs (eg because such companies have negotiating power with suppliers and benefit from economies of scale).*

Noted

*6.5 When there is separation, the company managing the claim is able to earn a rent by increasing its bill above actual costs incurred towards the maximum level that a court would consider reasonable. Consequently there is an incentive for companies to seek to manage claims or an aspect of them (such as provision of replacement cars): (a) At-fault insurers have an incentive to 'capture' a claim so that they can control costs effectively—(see Section 3). Our non-fault survey results suggested that at-fault insurers were successful in capturing about 32 per cent of claims (see paragraph 3.68).<sup>3</sup> For these captured claims the at-fault insurer has both cost liability and cost control; this is also the case for a further 4 per cent of claims where both drivers were with the same insurer,<sup>4</sup> but in the remaining 64 per cent of claims separation remains, as the at-fault insurer has cost liability but another party controls the costs of the claim.*

We object to the opening section of para 6.5. The language 'earning rents' is pejorative and looks like pre-judgement that CHOs are a quasi monopoly. [ REDACTED ]. We dispute that we earn rents, and remind the CC that it states the CHC sector does not earn excess profits, and has low concentration – see para 6.17.

If the CC means insurers and brokers have power to get a commission or referral fee from



being linked to the non-fault claimant, we think this is a pro-consumer and pro-competition phenomenon. It leads to a virtuous circle of businesses that operate for the good of the consumer. None of this is recognised in the CC's apparent thinking.

[ REDACTED ].

If the CC is referring to legal principles where insurers are allowed to claim for their costs at retail rather than wholesale prices, that is nothing to do with CHCs and the accusing finger of the CC should be directed at the insurers. **All this is mixed up.** For the avoidance of doubt, our charges are not extracting rent or excess costs from any party. Our credit hire charges are set by GTA agreement, in which the insurers set the ceiling and rules for recovery. [ REDACTED ].

We wish to say we do not accept the narrative about there being problems between cost liability and control, in the context of CHCs/CMCs operating under the GTA. Even if the CC wants to say this, the terms of the GTA protocol contradicts and forbids what the CC wants to say. [ REDACTED ] to say the CHCs have noted this is not an issue because of the GTA protocol. There might be a minority of CHCs that refuse to join the GTA, but a remedy forcing all to subscribe to the GTA protocol can handle them. The scale of parties that opt out of the GTA is small.

[ REDACTED ]. We do not agree with the Provisional Findings on many topics, and we say where we believe the CC has gone wrong, and what more work is needed. [ REDACTED ].

[ REDACTED ].

To conclude, this paragraph muddles insurers and CHCs/CMCs and what they all do.

[ REDACTED ].

*Footnote 3 - Data from insurers suggests that the percentage of captured claims is lower, about 25 per cent.*

This footnote echoes [ REDACTED ]. In this case, the text in the narrative highlighted in red above says insurers capture 32% of claims. The CC then says the non-captured section referred to CHOs is 64 per cent. However, this footnote shows our share is much more significant. Effectively, our share is some **71 per cent**, if we allow 4% for both drivers being with the same insurer. The under-reporting of our share is material at nearly 11 per cent. We believe the share of non-fault claimants that we serve is a mark of our value.

[ REDACTED ]. If the CC has a problem with its data, then we suggest it uses the insurers figure of 25 per cent. [ REDACTED ].

[ REDACTED ] we note this section of the report has barely a word on our **value and importance to some 300,000 drivers** and their families, involved in non-fault claims. [ REDACTED ].

- [ REDACTED ].

[ REDACTED ]. As the CC knows, we are highly concerned over the scope and nature of certain remedies, as covered in our Response to Remedies. If the CC is not aware of the benefits of what we do by now [ ✂ ].

*Footnote 4 - Appendix 6.5, Table 1, shows there were a total of 36 per cent of claims which were captured by the at-fault insurer or for which the non-fault insurer and the at-fault insurer were the same.*

[ REDACTED ]. How can the CC's data be different to that from insurers? [ REDACTED ]. The significance of having a correct number for the percentage of non-fault claimants is because remedies affecting our business can directly impact on this very large population of people. Issues such as costs/benefit analysis will be needed to assess impacts of proposed remedies on these non-fault clients of CHCs/CMCs.

*6.5(a) At-fault insurers have an incentive to 'capture' a claim so that they can control costs effectively—(see Section 3). Our non-fault survey results suggested that at-fault insurers were successful in capturing about 32 per cent of claims (see paragraph 3.68).<sup>3</sup> For these captured claims the at-fault insurer has both cost liability and cost control; this is also the case for a further 4 per cent of claims where both drivers were with the same insurer,<sup>4</sup> but in the remaining 64 per cent of claims separation remains, as the at-fault insurer has cost liability **but another party controls the costs of the claim.***

The end of this para is vague. Who is this 'other party' highlighted in red. Is it the non-fault insurer or CHC? [ REDACTED ]. This narrative ignores the significance of the GTA, which is meant to control the costs of claims when handled by CHCs and even CMCs. [ REDACTED ].

*6.5(b) CMCs and CHCs compete to obtain non-fault claims work from insurers and brokers, for example by offering them referral fees.<sup>5</sup> CMCs and CHCs can afford to pay referral fees because they can bill the at-fault insurer for more than the costs*

*they incur. They can obtain referrals of non-fault claims from insurers and brokers because, after an accident, the non-fault driver usually notifies their own insurer or broker.*

We object to this narrative because it leads to the prejudicial inference of over-charging. When the issue is properly analysed, CHCs/CMCs in most cases operate under the GTA rates, as pre-agreed with the insurers. We operate under an industry code, and the CC is aware of some small players who operate outside the GTA. [ REDACTED ]. As said, the GTA as an industry protocol is a very important defence against over-charging, but the text does not say this.

The referral issue is also written in a negative manner, to which we object. Again this is not as clear as the CC wants to narrate this. Referrals are pro-competition and pro-consumer, linking the people in need to the source of free service. The consumers do not pay for CHC services but can receive very valuable benefits, worth hundreds of £s, to more than £1,000. [ REDACTED ].

[ REDACTED ].

*6.5(c) Non-fault insurers also have an incentive to manage claims themselves because they can make a profit by doing so.*

This para needs expansion to say non-fault insurers can receive a referral fee when they pass a non-fault claimant to CHCs/CMCs. That in turn leads to lower premiums, which surely is a pro-competitive process, and also gets the consumer to the one-stop-shop provider prepared to provide a claims management service at no charge, and at point of need. All this helps the public [ REDACTED ]. We have asked the CC to inform us of a better model than referral fees [ ✂ ].

We think these paras (a) to (c) should be free-standing. They all say different things, and the introduction has nothing to do with their text.

*6.6 We noted a number of ways that separation could lead to higher costs for at-fault insurers:*

*(a) Non-fault insurers, brokers and other companies (eg garages and breakdown companies) that manage claims normally arrange provision of replacement cars through a CHC, **resulting in higher cost to the at-fault insurer** than if the at-fault insurer itself provided a replacement car to the non-fault claimant (see Appendix 6.1).*

[ REDACTED ]. We totally disagree that we cause higher costs to at-fault insurers.

[ REDACTED ]. When the CC looks at our response to Appendix A6(1), it will see that we have repudiated the CC's workings in Table 6, and the conclusions that the CC wished to draw from this table are undermined. Based on the work we have done, there is no credible evidence that the CC can use in the provisional findings to demonstrate CHCs overcharge at-fault insurers. The CC is also aware that we do not accept the direct hire alternative is comparable to the CHC service or is necessarily provided at lower cost. [ REDACTED ].

*(b) Brokers often refer non-fault claims to CMCs, resulting in higher cost to the at-fault insurer than if the at-fault insurer itself managed the non-fault claim.<sup>6</sup>In these cases, the CMC would usually arrange both the provision of a replacement car and repair to the non-fault claimant's car. (Repair is discussed in Appendix 6.2.)*

Ditto to para (a) objection.

*(c) Some non-fault insurers charge at-fault insurers more for repair than the costs they incur. Not all non-fault insurers do this. The practice of one insurer has been challenged (Coles v Hetherington, under appeal at the time of writing—see para-graph 3.11). The outcome of this litigation might influence future behaviour of insurers.*

No comment – this is an insurers' issue.

*(d) If the damage following an accident is such that it is not economic to repair a non-fault claimant's car (ie it is written off), some CMCs and non-fault insurers charge the at-fault insurer more than the cost they incur (pre-accident value of the car paid to the non-fault claimant less total receipts for salvage). (Write-offs are discussed in Appendix 6.3.)*

*6.7 In addition to paying out more for claims than if they had managed them, at-fault insurers also incur costs in dealing with and seeking to reduce the subrogated bills sent to them by non-fault insurers, CMCs and CHCs. This involves: (a) keeping track of the repair process to check for undue delays and to intervene directly when appropriate (for example, by sourcing a part not readily available);*

*(b) verifying that the replacement car is provided for no longer than is necessary and that the category of vehicle reflects the driver's needs; and*

*(c) challenging the subrogated bill if it is considered unreasonably high (eg because of undue delays to repair or if a replacement car is provided for longer than necessary). If the two sides do not reach agreement on the subrogated bill, the result can be litigation proceedings.*

*We describe the resulting costs for both sides as transactional and frictional costs.*

This is what the CC calls frictional and duplicated costs. We dispute this. [ REDACTED ].

All our costs are essential to our business, and we facilitate claims, and do not create waste.  
[ REDACTED ].

[ ✂ ] In this connection, we have drawn the CC's attention to 2 key issues – (a) our costs are necessary to run our business and meet our clients needs (at quite a scale); and (b) the at-fault insurers have avoidable costs i.e. wasted costs with [ REDACTED ]. and for large CHCs, the basis for claims management and settlement is via the GTA protocol.

[ REDACTED ].

### *Bilateral agreements between insurers*

*6.8 Many insurers have agreed bilaterally to practices reducing transactional and frictional costs in direct insurer-to-insurer interactions (known as the RIPE process).<sup>7</sup> Under this process, at-fault insurers only request from non-fault insurers documentary evidence to substantiate claims in exceptional circumstances, with subsequent audit of a small number of claims.<sup>8</sup> Associated with the wide spread of these agreements across insurers, we considered that claim-related transactional and frictional costs in insurer-to-insurer interactions were likely to be lower than where CMCs and CHCs were involved—see paragraph 6.5. The RIPE process is mainly relevant to repairs and write-offs **rather than replacement cars**, since provision of replacement cars to non-fault drivers is usually through CMCs/CHCs.*

*Footnote 7 - Each participant in RIPE has bilateral agreements with other participating RIPE insurers (participants), but not necessarily with all other participants. The RIPE document states that there is no intention that participation in the RIPE process forms a contract and the terms of the process are not enforceable in a court of law.*

*Footnote 8 - We understand the RIPE document to provide for 50 claims of each participant to be audited every six months by one of the other participants. If a participant's audit is failed, all participants with a bilateral RIPE agreement with that participant can request a further audit, or documentary evidence for all claims over a period to be agreed by the two participants. If the audit is 6-5*

6.8 and 6.9 – we note Ripe does not deal with CHCs and replacement cars. So this text should be removed. The footnotes should go into the main narrative.

*6.9 We noted that not all companies participated in the RIPE process.6.6 (c)) and that the costs of this litigation represented a frictional cost, although it was one that was fixed rather than linked to the number of claims. We also considered that, depending on the results of this litigation, there was a possibility that insurer-to-insurer claim-related transactional and frictional costs could increase. <sup>9</sup>We also noted ongoing litigation challenging one insurer's approach to repair costs (see paragraph*

No comment.

*6.10 Some insurers have bilateral agreements covering the level of each of their subrogated bills. Under such agreements, insurers agree to bill at costs lower than the reasonable levels recoverable under tort law, closer to the actual costs incurred. Two types of agreements exist:*

*(a) bilateral agreements on replacement car provision: under these agreements, the non-fault insurer agrees not to refer the claim to a CHC but to arrange a direct hire at rates agreed with the at-fault insurer; and*

The CC needs to note the context of these bi-laterals. We believe their scale is small at present.

*(b) bilateral agreements on repairs: the non-fault insurer agrees to apply a discount on the invoiced bill, taking into account the referral fees, rebates and discounts received. One insurer described this as effectively billing the wholesale cost of the repair.*

No comment

*6.11 Bilateral agreements represent an attempt to deal with the consequences of separation. However, the stronger forms of bilateral agreement referred to in paragraph 10 are not widespread. Results from our non-fault survey suggest that only about 5 per cent of replacement cars and 3.5 per cent of non-fault repairs are covered by the stronger forms of bilateral agreement (see Appendix 6.5, Table 1). Insurers told us that these bilateral agreements were not more widespread because they were administratively difficult to manage; because differences between insurers made them more difficult to agree;<sup>9</sup> and because of competition law concerns.*

*Footnote 10 - Relevant differences included importance of sales through brokers rather than direct to consumers, and size of insurer.*

The text in this paragraph about the administrative difficulties to manage these agreements proves exactly what we said. Hence the scale is small. [ REDACTED ].

The footnote should be included in the narrative.

## *Effects of separation on insurers' and brokers' cost and revenue*

*6.12 This subsection analyses the impact of separation on insurers' revenue and costs. We consider separately replacement cars, repairs (both credit repairs and those managed by the non-fault insurer) and write-offs, estimating the **higher costs** faced by the at-fault insurer and the revenues for the non-fault insurer. We discuss the **transactional and frictional costs** and also costs that insurers themselves incur in managing non-fault claims.*

[ REDACTED ]. Indeed, the CC has used frictional costs many times in the first 13 paras of this Section 6, [ REDACTED ].

We repeat, we are not responsible for frictional costs – indeed, as our clients are technically creditors once their claims are accepted, then if the insurers try to avoid payment or needlessly challenging the claim, they are the ones in the wrong. [ REDACTED ].

[ REDACTED ].

This paragraph also includes the assertion that the CC estimates that at-fault insurers *pay higher costs*. Based on our work on Appendix A6(1), this is refuted. Such text needs removal once our work is considered.

[ REDACTED ].

## *Cost and revenue effects: replacement cars*

*6.13 A non-fault claimant has a legal entitlement to a replacement vehicle if their car is not drivable or is being repaired. Compensation will usually be considered by the courts to cover the costs of a replacement car which is broadly equivalent to the customer's own vehicle (often referred to in the industry as a 'like-for-like' replacement vehicle). This is subject to the non-fault driver's duty to mitigate their loss with consideration to their need (see paragraph 1.26). As already mentioned, non-fault insurers and brokers usually refer non-fault drivers to a CHC for a replacement vehicle, which is then provided under a credit hire contract.<sup>11</sup> On the other hand, when a claim is captured by the at-fault insurer, replacement cars are arranged directly between the at-fault insurer and a car hire company (**direct hire**).*

We point out that Direct Hire is not an advertised service, and is simply an agency agreement between the insurer and supplier. It does not capture the multitude of claimants who are not captured for one reason or another. The captured proportions, as noted in footnotes 3 and 4 are between 25% (as claimed by insurers) and 36% as claimed by the CC!



The majority not captured need to have their interests protected, when they are genuine non-fault drivers. This is why the role of CHCs' developed.

*Footnote 11 - Of the ten largest insurers, only CISGIL does not refer claims to CHCs. All the others, and all major brokers, refer to a CHC unless there is a relevant bilateral agreement with the at-fault insurer.*

This is another of our important objections. The footnote puts CISGIL as an exception to the other 9 major insurers. But they also acquire CHC services via their separate group company. Hence, all the 10 insurers and all the brokers use CHCs for their non-fault claimants. This indicates the value and excellence of our service. This is factual evidence which the CC should state without any reservations and with the emphasis on the service angle.

*6.14 We found that the average costs of a replacement car paid by insurers were substantially greater when there was separation than when there was not.*

*(a) A simple comparison for five insurers showed an average replacement car cost in 2012 of about £1,400 when there was separation,<sup>12</sup> compared with about £480 for captured claims and about £370 when the non-fault and at-fault driver had the same insurer (see Appendix 6.1, **Annex B**, Table 1).*

**We object to all these conclusions.** Our detailed response to Appendix 6.1 deals with this. We think the above text means **Annex A** Table 1. In our response to the Appendix, we have challenged the thinking behind Table 1, and the comparison noted above. **We believe these conclusions should be [ ✂ ] for reason given in the separate response,**  
[ REDACTED ].

[ REDACTED ]. We would also like access to the Data room containing such data for more detailed scrutiny.

*(b) The average duration of a credit hire (incurred on most claims where there is separation) is longer (by about 3.7 days, 31 per cent) than the average duration of a direct hire (incurred when the claim is captured and there is no separation or where there is a bilateral agreement between the at-fault insurer and the non-fault insurer) (see Appendix 6.1, Table 5).*

*(c) Data from seven CHCs showed an average credit hire charge of about £1,100.<sup>13</sup> Comparison of the average credit hire daily rate charged by these CHCs with the direct hire daily rate paid by three insurers for similar cars showed that the credit hire daily rate was 2.5 times as high (see Appendix 6.1, paragraph 32, Table 6).<sup>14</sup>*



*Footnote 14 - Many credit hire claims are settled under the GTA, but average charges by CHCs **appear** to be above GTA rates—average charges were 2.5 times direct hire rates whereas GTA rates were 2.1 times direct hire rates (see Appendix 6.1, Table 6).6-8*

We dispute all this. Again our detailed response to Appendix 6.1 should be carefully examined around para 35, and incorporated into this para. The final conclusion of 2.5 times, etc. is refuted

We have also noted numerous reasons why the comparison between Direct Hire services, and Credit Hire services is like comparing apples and pears. They are not the same fruit. The same analogy applies regarding the false comparison of the service of Direct Hire (on behalf of 3 self-select insurers), and Credit Hire (on behalf of a multitude of non-fault claimants). [ REDACTED ]. For the avoidance of doubt, we note this section of the CC's report lacks any objective and analytical comparison of Direct Hire (an inferior and limited service), with Credit Hire (a superior and more valuable service to claimants). [ REDACTED ]. Our difference with the CC on this issue is over principle, and that needs to be recorded in the narrative. [ REDACTED ].

[ REDACTED ]. Our conclusion is that the above text has no basis in fact, and the results are tainted with irrelevant data, that is not verified as true. [ REDACTED ].

We also dispute Footnote 14, which has no merit in any of this text of Section 6, for reasons given in our detailed response i.e. we have rebutted the 2.1 and 2.5 times comparators. [ REDACTED ].

As should be apparent from our text above, we see the approach shown in drafting, [ REDACTED ].

*6.15 Different explanations were advanced for the longer credit hire than direct hire period. On the one hand, insurers suggested that credit hire periods were **unnecessarily extended to inflate bills**. In this regard, we noted that at-fault insurers often challenged credit hire bills, subsequently agreeing a lower amount with the CHC; that challenges were most likely to be on the **length of hire rather than the daily rate** at least if it was a GTA rate; and that, on average, CHCs wrote off 20 per cent of their gross revenue, mostly by accepting lower settlement payments. On the other hand, an alternative possible explanation is that credit hires are for more serious accidents requiring longer repairs. This would be consistent with captured claims having on average a lower value than non captured ones, as suggested by insurers (see Appendix 6.2). It **may be** that there is some merit in both explanations, therefore in the absence of convincing evidence, we did not take into account the*

*longer hire duration in estimating the extra cost of credit hire.*

Given our adverse comments on para 6.14, we continue this same theme here. We reject the [ ✂ ] comment that credit hire periods are unnecessarily extended. And we do not see the CC taking this conclusion forward in Appendix 6.1, where the CC did work on this duration issue. Table 5 in Appendix 6.1 shows material differences in duration, which the CC can not ignore. The allegation should be withdrawn regarding unnecessary long credit hire periods. [ ✂ ]

The CC ends this para with [ REDACTED ]. We know the allegation is not true for our business. [ REDACTED ]. To conclude, credit hire does deal with cases taking longer duration than direct hire cases.

Similarly write-downs are a form of settlement discount to resolve cases. We address this in our response to Appendix 6.1 where this work is shown. Commercial decisions are taken to give discounts to insurers to help develop mutually beneficial relationships, but that does not relate to over-charging or inflating bills. [ REDACTED ].

Given our comments, this paragraph requires a complete rewrite based on actual results of the CC's work. Our response to Appendix 6.1 refutes the false allegation about CHCs inflating bills under the GTA. [ REDACTED ]. It contradicts the fact that CHCs have worked with all the major insurers for years. How would they allow such a situation to go on, without challenge at the highest level, if overcharging was the norm?

Finally, as the credit hire period is necessarily a 'driver' of credit hire charges, the last sentence of the para is troubling. How can the CC disregard duration in any meaningful **comparison** with direct hire? The CC needs to stratify the direct hire claims by duration periods, and do a like-for-like comparison with credit hire. [ REDACTED ].

[ REDACTED ]. Our conclusion is the above text has no basis in fact.

*6.16 A **simple comparison** of replacement car costs may be affected not only by the length of hire period, but also by the quality of replacement car (eg whether 'like-for-like' or basic courtesy car). Since we wanted to control for any difference in quality between captured and non-captured claims, we compared **average** credit hire and direct hire rates for the different classes of cars, weighting each class by the respective number of credit hire days for a sample of seven CHCs (see Appendix 6.1, paragraph 34).<sup>15</sup> We based our estimate of the average total cost of replacement car when there is separation on the average revenue per hire of these CHCs. We estimated that the average cost of a replacement car was **£1,100** and that this was approximately **£640** greater than the cost of a similar car in the absence of*

*separation (see paragraph 6.14(c) and Appendix 6.1, paragraph 35—precise figures are affected by rounding). Although there is some uncertainty on the precise extent of the cost difference, our result is broadly consistent with what can be obtained using different estimation methods.<sup>16</sup>*

*Footnote 15 - A number of CMCs/CHCs suggested that the appropriate counterfactual for credit hire was not direct hire, but hire by claimants themselves at retail rates. We considered a benchmark 'well-functioning market' to be a market which delivered consumers' legal entitlements in an efficient way (see paragraph 6.3) and therefore looked at two dimensions. In assessing how separation affects insurers' costs and revenue streams, we considered that this implied using the excess cost of credit hire over direct hire as the measure of the cost associated with separation. We also considered the impact of separation on the quality of service provided. As noted in paragraph 6.38 below, we accepted that the existence of CMCs/CHCs was likely to give at-fault insurers the incentive to provide a high quality of service to non-fault claimants, including, for instance, a like-for-like replacement car in many cases.*

*Footnote 16 - Our estimates of the average cost of a replacement car under separation are between £1,085 and £1,400. Assuming that credit hire costs 2.5 times as much as direct hire, the extra cost would be £640 to £830. Taking the figure that credit hire costs 2.1 times as much as direct hire, the extra cost would be £580 to £730 (the numbers are affected by rounding)*

Firstly, we conceptually disagree with this text. Our response to Appendix A6(1) covers this issue over many pages. We totally disagree with the £1,085 figure noted, which we say is based on tainted data, and false comparisons. As we noted above, the workings that were used to construct the data was [REDACTED] in ways that the CC has so far, not even allowed us CHCs to inspect. The CC noted it got data from 3 unnamed insurers, and the data had problems with accuracy and truthfulness. The CC made guesses on what it was going to do.

- In our view, it overstated its so-called average daily credit hire rate. And equally bad it understated the so-called average daily direct hire rate. The multiplication comparison was [REDACTED] number around 2.1 to 2.5, to which we have objected. All this in our separate document is part of this Response.
- We say the CC can not credibly rely on its work producing these results [REDACTED]. It has not discussed any of this with us, and there is much text in our response to the Appendix which needs to get included in Section 6.

We think the CC the work [REDACTED] the analytical and conceptual considerations just never happened. [REDACTED].

To conclude, given our comments in the separate Appendix 6.1 response, we suggest this paragraph is removed and rewritten. [ REDACTED ].

Turning now to the footnotes, they are equally **problematic**.

**The CC will see the footnotes occupy more space than the original text** in this offending paragraph, which as we said is simply not true. We want the footnotes to be incorporated into any surviving text, but object as follows.

Footnote 15 appears to be a vague acknowledgement that we CHCs did in fact object to this work as it was developing at our expense, near the end of 2013. The public response by Quindell was put on the CC site and we agreed with its objections. Yet the objections are not mentioned, either here or in Appendix A6(1). So the CC has apparently suppressed material information that it needed to consider (with us) and answer [ REDACTED ].

[ ✂ ] even though CHCs and its trade body the CHO requested **access to the data** to check what is overstated, understated [ REDACTED ]. So we say all CHC objections need to get into Section 6, and the CC [ REDACTED ].

If removing the offending text undermines the AEC work, shown later in Section 6, [ REDACTED ] our separate response on Appendix 6.1 was prepared with considerable effort to prevent major incorrect and damaging conclusions emerging from this investigation. All that needs to be considered, fairly, [ REDACTED ].

Footnote 16 is equally objectionable. Here, the CC says its figures shown in the paragraph maybe too low, [ ✂ ] higher numbers, [ ✂ ]. There is no over-charging, and the language [ REDACTED ]. This footnote needs deletion as well as its source text in Appendix A6(1).

To conclude, given our comments in the separate response, we suggest this paragraph is removed [ ✂ ] If the CC wishes to discuss our objections, we are happy to take this forward. Our conclusion is the above text has no basis in fact, and the results are tainted with irrelevant data, that is not verified as true.

The comparison between CH and DH is also a false comparison for many logical and economic reasons [ ✂ ] which we have brought to the CC's attention. [ REDACTED ].

*6.17 Of this estimated £640 extra cost of credit hire, on average about £340 is paid out in referral fees to non-fault insurers.6.7 ); second, CHCs **may have higher operating costs and not benefit to the same extent from negotiating power with suppliers as larger hire companies used for direct hire by insurers;** and third, CHCs*

*incur costs in providing additional services (see paragraph 6.36).<sup>17</sup> The remaining £300 is therefore accounted for by **higher costs of CHCs and any profits** that the CHCs make. There are a number of reasons why the costs of CHCs in providing replacement cars **may be higher** than the direct hire cost incurred by an at-fault insurer. First, CHCs incur **transactional and frictional costs** (see paragraph 18). We believe for the reasons below that the difference is mostly due to frictional costs. According to the GTA, a CHC has to keep track of the repair, to guarantee that the hire period is not unduly long. For example, if there is a delay in the repair, the at-fault insurer must be informed and it **may directly intervene to shorten the delay**. All this involves costs. Moreover, litigation costs are significant (see Appendix 6.1, paragraphs 60 to 70). **We note that we have not seen evidence that CHCs earn more than normal profits. Indeed, as we found that barriers to entry were low and CHCs compete to obtain referrals by offering high referral fees, we consider it unlikely that CHCs earn more than normal profits.***

We dispute as noted in our response to the previous paragraphs this £640 extra cost of credit hire. Our [ ✂ ] evidence supporting our view is given in our Response to Appendix A6(1). [ REDACTED ]. And we see this is the centrepiece of the CC's work. **Against this, we refer the CC to our Table 1A and 1B which rebuts the CC's computation of this figure.**

The reason CHCs may have higher operating costs compared with DH businesses is because we do **entirely different businesses**. [ REDACTED ]. The comment in the first sentence about Direct Hire operators negotiating power is pure speculation. [ REDACTED ].

As said in answer to Appendix A6(1), Direct Hire operator(s) do not provide a paid service to the public, but simply provide a service to their tied insurer. The service they provide is only to captured non-fault claimants, and the service is to a standard required by the insurer instructs [ ✂ ].

- CHCs however provide their service to the wider pool of non-fault drivers (hundreds of thousands of people) at no charge, with a car when needed on a like-for-like basis. The economics of our business compared to the Direct Hire business is totally different.
- We also think insurers [ ✂ ] to direct hire agency services, by doing some work which we do, for example, their capture teams work is purely to support the DH operation, as well as claims management. All these costs should be added to the DH operators charge for cars. Similarly the longer durations for credit hire, require an uplift in DH charges.

- How has this been adjusted for, to make DH comparable with CH in the CC's £640 quoted above? We don't think these adjustments were made.

For the record, it is interesting that the Provisional Findings shows nothing, so far on the financial results of CHCs as a factor [ REDACTED ].

- [ REDACTED ].

[ REDACTED ].

The CC has not looked at our cost structures, [ ✂ ] to eliminate costs. If it thinks any or all CHCs can maintain our volume of leads from consumers **without** a referral fee system in place, it does not say how. Currently, the intermediaries receiving fees for their leads are the direct link to the client needing help. Without the intermediary who would expect remuneration, leads on any scale would not arise. And general marketing is too unfocussed to be as effective as the current system of referrals. The CC understands PCWs require commission to operate, and we believe intermediaries require the fees set by market forces to do their job well. Indeed, even the non-fault insurers refer their leads for fees noted in Table 7 of Appendix 6.1. The CC proposes [ ✂ ] in Section 6. Nor does the CC take account of the non-captured clients need for services that we offer (at no charge).

And we must emphasise that insurers and direct hire businesses are both not obliged to consider the welfare of the non-captured non-fault claimants (around 70% of all claimants). As third parties, they are not the insurer's customers, which **means the FCA rules to treat customers fairly do not apply to them**. So how does [ ✂ ] about costs advantages of DH (which we refute) benefit in any way the hundreds of thousands of accident victims, who find or will find their bona fide claims rejected by the at-fault insurers [ REDACTED ].

- [ ✂ ] over non-fault driver's rights to get help when they are victims in a scenario where CHCs don't exist. If the insurers turn them away, what then happens? Without the constraint of CHCs why shouldn't most non-fault claimants be sent away by at-fault insurers (i.e. have their claims rejected). [ REDACTED ].

The CC says insurers **may directly intervene to shorten the delay**. How many of these cases has it examined, and where is this evidence shown? With which CHCs did this happen on any scale to warrant this assertion of cost inflation?

We note the last 2 sentences, and **we agree** with the comments, namely that we do not

make excess profits, and our sector is fragmented with lots of players with low market shares i.e. low concentration. We believe this should be in a separate section, where the CC mentions the **value of CHCs**, both to insurers and to claimants. A lot of the information to do this will be found in our Response to the Appendix A6(1) and our Response to the Remedies Notice.

However in contrast to the CC's comments on us, it has not noted anything about direct hire – is this a sector? How big is its turnover in recent years, and who are its participants, and with what insurers are they tied. All this essential information is missing, and we don't know why given the CC's desire to see this model emerge as a solution, in the proposed remedies to replace CHCs. We know of no other supplier, equal to [ ✂ ] prepared to do Direct Hire on any scale. Therefore, if all Direct Hire consists of is [ ✂ ] with a 99%+ market share, is the CC suggesting they should have a monopoly on all non-fault captured work by insurers? Is this the new definition of "competition", one supplier? [ REDACTED ].

- If this was to happen under the CC remedies, is there going to be a Regulator for Direct Hire; [ ✂ ] given that dominance is assumed at market shares above 60%. [ REDACTED ].

[ REDACTED ].

*6.18 Similarly, at-fault insurers also incur significant transactional and frictional costs in dealing with CHCs (see Appendix 6.1, paragraphs 71 to 80). They monitor the duration of repair and of the hire period and often incur litigation costs. It is likely that these costs substantially exceed any transactional costs at-fault insurers would incur in purchasing car hire directly. For this reason, the total extra cost attributable to separation is likely to be significantly more than £640.*

Given our comments on Appendix A6(1), we see this issue not as frictional costs on at-fault insurers, but as **waste and avoidable costs**. The so-called work the CC says they do is not needed because the GTA exists to control misconduct. [ REDACTED ].

The insurers incur litigation because they refuse claims. When they lose, it shows their judgement was wrong. Is the CC saying claimants are wrong to allow CHCs to enforce a claim, when the Insurer is the debtor? [ ✂ ]

Purchasing car hire has nothing to do with insurers paying for liabilities that are properly owed to claimants exercising their legal rights to recover their costs. [ REDACTED ].



**We do not accept that we cause any extra cost differentiation** at £640, or zero – see our response to Appendix A6(1). Our charges are fair and reasonable, and the CC's thinking does not square with its admission in para 6.17 that the CHC sector does not make excess profits, and has low concentration. We simply can not see the logic and reasoning [ REDACTED ].

Equally bad, we point out that if at-fault insurers are able to demand all non-fault drivers are captured, [ ✂ ] As the CC knows, the FSA/FCA rules require insurers to **treat customers fairly**. So policy holders have some rights when they claim. But what is the status of non-fault claimants under the FSA/FCA or Ombudsman. The treat customers fairly rule can not apply to third party claimants, who are not customers of the at-fault insurer. So what regulation does the CC foresee, if [ ✂ ]

- We have said we expect a multitude of non-fault claimants to be treated badly if these remedies become a reality. We expect the at-fault insurers will [ REDACTED ], and everyone in grey areas will be turned away with excuses and challenges over their claim.
- The burden of proof is therefore on the CC to say no, [ ✂ ] We will expect to see robust models of how it sees the future for these innocent people, who by the CC's decision will be put into a worse position than now. [ REDACTED ]. This question requires sound judgement.
- We think the current status quo is the right place to be, and it does not increase the insurers' power any further.

## Conclusions to paras 6.1 to 6.18

We have been necessarily forced to invest in a lot of work and resources to deal with the CC's text as noted above, and the very considerable collateral issues in Appendix A6(1) from which much of the CC's narrative above was derived. As this feeds into most of the CC's estimate of detriment, we must directly deal with this thinking.

[ REDACTED ]. But we are guided by the text and analysis we have read, and which we have rebutted, especially in our response to Appendix A6(1). [ REDACTED ].

In the remaining sections of this response we aim to be brief, as we are under the CC's deadline to submit this response by 7 February 2014. But we reserve our position to submit more text, when time permits.



## Responses to other paras in sections 6

### Cost and revenue effects: repairs

*Para 6.19 – not reproduced – see original text – but footnote 19 should be inserted into the text*

*Para 6.20 to 6.27 – not reproduced – see original text*

We note this para has a lot of problems noted on page 10. We see however that Table 6.3 on page 32 shows this issue amounts to only £51m. We show the table below for convenience.

6.72 Table 6.3 summarizes the resulting calculation. Full details of our calculations are set out in Appendix 6.6.

TABLE 6.3 Total impact of separation on at-fault insurers' costs

	Replacement car		Repair		Write-off		Total cost increase
	£ per claim	No of claims ('000s)	£ per claim	No of claims ('000s)	£ per claim	No of claims ('000s)	
Credit hire/repair	640	301	324	85	125	21	
Non-fault insurer handling			95	240	53	64	
Total cost increase (£m)		193		51		6	249

Source: CC.

*Note:* We assume that frictional and transactional costs incurred by at-fault insurers offset the management costs saved (see paragraph 6.71(d) and Appendix 6.6, paragraphs 15 and 16) with the result that our overall estimated cost increase is likely to be an underestimate. Also, since frictional and transactional are greatest for replacement cars and management costs are greatest for repairs and write-offs (see Appendix 6.6, paragraph 15), our estimated cost increase for replacement cars is very likely to be an underestimate while our estimated cost increase for repairs and write-offs may be an overestimate.

Accordingly, at this stage we are not making many points, but reserve our right to revisit this later.

### **Summary of cost and revenue effects**

*6.28 We provisionally found that separation usually results in provision of a replacement car on credit hire rather than direct hire terms, at an average extra cost to the at-fault insurer of at least £640 per replacement car, and average revenue to non-fault **insurers from referral fees of about £340**. Repairs and write-offs with separation are mostly managed by non-fault insurers, some but not all of which charge the at-fault insurer significantly more than the cost of repair. Around a quarter of repairs and write-offs with separation are managed by CMCs, which we estimate cost the at-fault insurer an average of £325 more than the cost of repair, and £125 more than the cost of write-off, with average revenue to non-fault insurers from referral fees of about £55.*

We disagree with this para. Specifically, our comments in response to Appendix A6(1) challenge the £640 alleged overcharge. We say the entire foundation for this is shaky. The benchmark used is totally wrong and inappropriate, and this number [ ✂ ]. Our detailed reasoning and arguments are in the Response to the Appendix.

Regarding the **offset** for the alleged problem with referral fees, if the CC believes we or CHCs can operate our business without this form of payment as a customer acquisition cost that too is an error [ ✂ ]. The free-market sets the level of fees, and insurers are involved in this process, which is a **virtuous circle**. The CC is [ ✂ ] breaking the circle and causing the entire structure to collapse (as well as businesses that benefit from these fees). What might emerge is a new world where non-fault claimants will suffer massive detriments, and support businesses collapse.

- We say that if we did not need to spend on these fees, we would not do so – the fact that we do, and this is a **sector feature** is because the competitive dynamic requires these fees to be paid, and nothing better is available to link CHCs to hundreds of thousands of potential non-fault claimants.

We in the Response to the Appendix 6.1 have explained this is an **essential marketing cost**. Imagine BskyB was told it can not advertise for customers, or the other media businesses. It would be called absurd intervention. Here we are being told our essential costs (which we are in the best position to judge) are not needed by the CC, [ REDACTED ], just like BskyB obtains new customers from its advertising.

- Our clients need us, especially in situations when at-fault insurers will be slow to process or accept their claim, or might say no. The CC's actions to threaten referral fees will cause potential clients to lose the benefits they deserve, when we act for them without charge immediately on contact, because they may not find us in their

hour of need. [ ✂ ] neither the insurers nor direct hire operators will fill this void. This is real friction in preventing claimants enforcing their rights, without having to have deep pockets to do so.

- As said, the direct hire operators will not be stepping in to help, as they work for the insurers, anyway. So who benefits from consumers losing such fundamental rights to recover non-fault claims?

The CC noted in its response to remedies that it is mindful of the interests of the impecunious. They represent a very high proportion of drivers on the road, for them alone, the System of referral fees should be preserved. And the CC has also accepted in para 6.81 the following:

*“.. the existence of CMCs and CHCs (which **only occurred** when there was separation) was likely to **give the at-fault insurer the incentive to provide a good quality of service to non-fault claimants ..**”*

***What better reason therefore to preserve the status quo as the optimal solution!***

We believe the onus is on the CC to explain the logic of how our business will be able to attract any claimants without this customer acquisition cost.

Nevertheless, we also have no doubt that even with the CC's efforts to say there is an AEC1 detriment, its remedies will fail first, the proportionality test; and second, the loss of relevant customer benefits test. [ REDACTED ].

### *Quality and service differences associated with separation*

*Paras 6.29 - no comment*

### *Quality and service differences: replacement cars*

*Para 6.30 to 6.31 – we reserve our position to return on this*

### *Quality and service differences: repairs and write-offs*

*Para 6.32 to 6.38 – we reserve our position to return on this*

## *Evidence from CHCs/CMCs*

6.36 CHCs/CMCs **told us that they provided better** or additional services compared with insurers (both at-fault insurers and non-fault insurers) **at no cost to the driver**. The services concerned were extra insurance on replacement cars (collision damage waiver), uninsured loss recovery<sup>29</sup> and after-the-event insurance.<sup>30</sup> We consider these services in Appendix 6.5. We found that one out of nine CMCs/CHCs in our sample provided extra insurance on credit hire but not direct hire replacement cars,<sup>31</sup> while six out of nine provided uninsured loss-recovery services. We noted that **these services were not provided by at-fault insurers**. We considered that after-the-event insurance was not relevant to the assessment of separation as it was not needed when claims were managed by the at-fault insurer.<sup>32</sup>

6.37 We noted that four out of nine CMCs/CHCs said that they provided replacement cars to non-fault drivers when liability was uncertain or disputed by the at-fault insurer (though the other five did not say this). We considered it unlikely that an at-fault insurer would provide a replacement car unless or until it was confident that a claimant was at fault for the accident. Hence we **accepted** that the involvement of CHCs/CMCs which provided replacement cars when liability was uncertain was likely to mean that some non-fault claimants received a better quality of replacement car services than in the absence of separation (eg a replacement car rather than any entitlement under their own policy (in most cases a courtesy car), which is what they would receive if liability was not determined at the time of repair).<sup>33</sup>

We object that our service and value is understated in the above. We see no reason why para 6.36 should start with the assertion that we told the CC how good and valuable we were. [ REDACTED ], and make a clear finding that we indeed provide the better service. [ REDACTED ].

All the footnotes should be included in the text as needed. For example 29 and 430 said:

*Footnote 29 Uninsured loss recovery involves pursuing, on behalf of the non-fault driver, the at-fault insurer for loss of earning, loss of personal effects, loss of value to the vehicle, excess etc.*

*Footnote 30 ATE insurance covers the non-fault driver in the event that the cost of the services provided to a non-fault driver following an accident by a CMC/CHC and other providers (eg engineers, investigators, lawyers and doctors) cannot be recovered from the at-fault insurer and, therefore, the providers are required to pursue the driver for the settlement of the claim.*

The CC has noted that at-fault insurers do not provide the extra services offered by CHCs/CMCs. **But how has this been taken into account?** [ REDACTED ]. Any service benefit for free is something that is important to note. It has nothing to do with the at-fault insurer but has a lot to do with the consumer benefit of the CHC offering.

Further, how has the CC looked at the ‘no-charge’ benefit to the consumer from CHC services? [ ✂ ] but on the other hand, the CC notes the impecunious could lose out from its remedies. [ ✂ ]

- It follows that the CC is potentially looking at CHCs in a very narrow and detrimental way, to say [ REDACTED ]. We ask the CC to look again at all survey evidence that shows the value of CHC services to the consumer, including saving them time and money. **That needs to get included in this section** without further delay. [ REDACTED ]. None of this should be [ ✂ ] in Appendix 6.5 but shown here to ensure our position is understood.
- The reason we want the value of CHCs, from the **survey evidence** to be quoted in Section 6, is as a **counterbalance** to the criticism we objected about earlier.

As we noted at the beginning of this document, there is text from Appendix 6(5) which should be inserted at the start of Section 6, showing our value to some 300,000 drivers a year. How can their interests get neglected, on the grounds of saving a dubious few £s a year for particular drivers? The thinking to make this judgment seems [ ✂ ]. The benefits of our service are on-going, and without CHCs the consumers will suffer a permanent detriment with many adverse side effects.

*6.40 We noted some further service differences in relation to replacement cars in that some CHCs/CMCs provided replacement cars when liability was uncertain and that this was likely to mean that some non-fault claimants received a better quality of replacement car services than in the absence of separation. We also found that certain CMCs provided some additional services to consumers. More generally, we also note that the existence of credit hire was likely to act as a deterrent to at-fault insurers providing a poor quality of replacement car services.*

We agree with the last sentence, highlighted above. We hope the message is recognised in decisions over the next months.

In para 6.41, the CC seemed to note separation was good in credit repair. So we do not comment more.

### *Implications for consumers of separation*

6.42 We considered that the main potential implications for consumers of these findings were **complex** as they could lead to both positive and negative benefits. In summary they were that:

(a) higher costs for at-fault insurers **may** lead to higher car insurance premiums;

(b) the revenue stream to non-fault insurers and brokers may lead to lower car insurance premiums; and

(c) **the separation of cost liability and cost control may be associated with direct benefits to consumers.**

The opening line of para 42 seems to say no action is required. If the impact of this investigation is complex and there are gains and losses, all around, then the right decision is to do nothing, and preserve the status quo. If that is an outcome, we would support the strengthening of the GTA sector via Remedy 1C.

[ REDACTED ]. This would be easier than remedies 1A and 1B.

Under point 6.42(a), we think the CC maximum alleged £8 detriment in so-called extra premiums, is negligible, when set against the loss of CHCs. The weighing of these 2 issues seems obvious in favour of CHCs.

Under point 6.42(c), **we welcome the admission** that the separation has impacts in terms of benefits to consumers. We just say they do have benefits, as we noted under relevant customer benefits in our Response to Remedies. Please can the CC look again at this section?

### *Impact assessments*

Paras 6.44 to 6.52 – at this stage we have no time to say much here. We reserve our position to add more when time permits.

## *Conclusion on impact of higher costs on motor insurance premiums*

### *Conclusion on impact of higher costs on motor insurance premiums*

*6.53 Our discussion suggests that higher subrogated bills result in a change in marginal cost that for a given level of risk is broadly similar across motor insurers in the market; that the market is characterized by strong rivalry with price-inelastic demand; and that, as we are concerned with comparing the situations with and without separation of cost liability and cost control, short-run capacity effects are not relevant. These circumstances are those where we would expect the higher costs incurred by at-fault insurers to be reflected broadly pro rata in higher premiums. The effect on individual premiums would vary according to drivers' risk of being at fault in accidents, being highest for drivers with the greatest risk.*

We note the theory of pass through as higher premiums. But less than £8 a year in an average premium of some £440 a year is below even the trivial and negligible level [ ✂ ]. Who would ever know they made a saving like this in their premium quote? We hope at the roundtable the CC will note the threshold at which it says higher prices lead to some form of market intervention. We say there is a spectrum for action, and we don't even think the lowest threshold has been reached. This is without prejudice to our arguments over the alleged AEC1 detriment, which we refute.

### ***Revenue stream to non-fault insurers and brokers***

*Paras 6.57 to 6.58 seem to indicate no clarity on what happens regarding incremental revenue or costs to insurers. In the context of this investigation, where insurers earn some £10 billion a year in revenues, the AEC1 range seems hardly worth strong touch intervention, like remedies 1A and 1B would suggest.*

***We do urge the CC to think more positively about remedy 1C.***



### **Direct quality of service benefits to consumers**

6.66 As discussed in paragraphs 9 to 6.41, current quality differences between claims managed by at-fault insurers, non-fault insurers and CMCs tend to be small. Nevertheless, the evidence from our non-fault survey indicates that **quality of service is better in relation to replacement cars for claims managed by non-fault insurers and CMCs** (see paragraph 6.39) and this would be associated with a consumer benefit from separation.

Some comments above suggest what CHCs do are important, in the eyes of the CC.

[ REDACTED ].

6.67 As set out in paragraph 6.36, CMCs also sometimes provide non-fault claimants with **additional services** (beyond those which an at-fault insurer is required to provide under tort law) and this too **would provide a benefit to consumers**. Moreover, the willingness of some CMCs/CHCs to provide a replacement car when **liability is uncertain or disputed may mean that some claimants receive a replacement car when they would not otherwise do so or would receive only a courtesy car**. On the other hand, because at-fault insurers (unlike some non-fault insurers) do not ask a non-fault claimant to contribute the excess towards the repair, and because most non-captured repairs are managed by non-fault insurers rather than CMCs,<sup>41</sup> there may also be a **service detriment to consumers associated with separation**. This detriment would be represented by the 'hassle' experienced by some non-fault claimants in **having themselves to recover the excess** from the at-fault insurer (with or without the help of a CHC)<sup>42</sup> plus the value of the excess for any non-fault claimants deterred from recovering the excess.

6.68 The quality of service benefit associated with separation would be greater if account is taken of the **impact that services offered by CHCs and CMCs have in improving the quality of service offered to captured claimants**, ie if comparing with quality of service under a benchmark where all claims are captured rather than the current quality of service received by captured claimants.

6.69 Overall, we considered that the effects on consumers of current quality of service differences associated with separation tended **to be small**; though we noted a **benefit to some non-fault claimants from receiving a credit hire car when liability had not been agreed between insurers**, and a detriment to some non-fault claimants with claims managed by their own insurer from **having to pay their excess and recover it themselves from the fault insurer**. More generally, we **accepted** that the existence of CMCs and CHCs, which only occurred when there was separation, **was likely to give the at-fault insurer the incentive to provide a good quality of service to non-fault claimants** (see paragraph 6.38) and this is discussed further in our conclusion below.



We think the red highlighted text shows the positives in the CC's thinking. If this translates into recognition to the value that CHCs provide to hundreds of thousands of claimants each year, and the need to preserve our sector (like the CC has said for PCWs), then [ REDACTED ].

### ***Estimation of the effect of separation on consumers***

*6.70 In this section, we estimate the total impact on premiums of separation from the total increase in subrogated costs and the total revenue stream to non-fault insurers. We then consider the effect of quality of service differences and estimate the net impact on consumers.*

*6.71 We estimated the effect of separation on subrogated costs as follows:*

*(a) Credit hire increases cost by an average of £640 per hire compared with an equivalent direct hire (see paragraph 6.28).*

The CC is aware that we dispute this figure. Indeed from our work on Appendix 6.1, we believe this figures has no credible foundation and needs to be withdrawn,

*(b) Credit repair increases cost by an average of about £325 per repair and non-fault insurer repair by an average of about £95 compared with repair managed by at-fault insurers (see paragraphs 6.21 and 6.22).*

In the context of overall detriment this may not be significant.

*(c) For write-offs, cost is increased by an average of about £125 per write-off when a CMC is involved and an average of about £55 when a non-fault insurer is involved (see paragraphs 6.26 and 6.27).*

This appears trivial when evaluated as a detriment.

*(d) Transactional/frictional costs incurred by at-fault insurers in dealing with CHCs and CMCs exceeded the average cost of managing repairs that at-fault insurers would have incurred in the absence of separation, though we were not able to quantify the extent to which they did so.*

We believe insurers have claims management costs which can be called 'avoidable', or wasted costs. They should be monitored. If they are significant, [ REDACTED ], as an incentive to work more efficiently in handling claims.

6.72 Table 6.3 summarizes the resulting calculation. Full details of our calculations are set out in Appendix 6.6.

TABLE 6.3 Total impact of separation on at-fault insurers' costs

	Replacement car		Repair		Write-off		Total cost increase
	£ per claim	No of claims ('000s)	£ per claim	No of claims ('000s)	£ per claim	No of claims ('000s)	
Credit hire/repair	640	301	324	85	125	21	
Non-fault insurer handling			95	240	53	64	
Total cost increase (£m)		193		51		6	249

Source: CC.

Note: We assume that frictional and transactional costs incurred by at-fault insurers offset the management costs saved (see paragraph 6.71(d) and Appendix 6.6, paragraphs 15 and 16) with the result that our overall estimated cost increase is likely to be an underestimate. Also, since frictional and transactional are greatest for replacement cars and management costs are greatest for repairs and write-offs (see Appendix 6.6, paragraph 15), our estimated cost increase for replacement cars is very likely to be an underestimate while our estimated cost increase for repairs and write-offs may be an overestimate.

The above table is noted, [ ✂ ]. We note the overall total at £249 million (before offsetting marketing costs). We clearly disagree with this analysis, but note it to show how the CC has analysed its view on overcharging, which we refute.

If our sector's income is reduced by what the CC says later, at £150m to £200m (in para 6.84) [ REDACTED ]. Clearly if the CC says this is an adverse effect on consumers, we say all the consumer benefits have simply not been factored into the balance. They massively outweigh this so-called detriment.

When CHCs provide their service for free to consumers, these provide consumers with significant opportunity costs (benefits). Just think of all the people who get cars, who can use them in their employment. And the impact on their families from having a loan car must be massive. These economic benefits appear to be ignored in the above. [ REDACTED ].

We are not happy seeing this consumer detriment of £150m to £200 million. It just does not appear true or fair. Our reasons are given above. We have also been reading the paras beyond this point, and are struggling to work out how the CC moved from the single figure noted above of £249m to the range. We note the narrative from this point did not show the steps in the CC's decisions very clearly. [ REDACTED ].

One way to tempering this detriment is to realise, as the CC noted in para 6.84 that it is only £6 to £8 a policy, and set against average premiums of £440 a year, it is barely more than 1 per cent. Who would notice this gain in premium quotes, but many would lose very badly

when they are in an accident that was not their fault, and were told to pick up their loss themselves – in other words, there was no-one to help. Set in this way, we hope the CC realises intervening with remedies that threaten the income of CHCs is as bad as similar remedies that threaten the survival of PCWs. In the case of PCWs, the CC already said it was not prepared to do this. We request similar considerations.

### *Quality of service differences*

*6.75 As a preliminary point, we noted that our estimates of the extra cost of credit hire and for non-fault insurer repair (see paragraph 6.70(a) and (b)) were not affected by any differences between the class of vehicle for captured and non-captured replacement cars or between the quality of service on captured and non-fault insurer repairs.<sup>44</sup>*

*6.76 As noted above, we considered carefully service differences associated with separation and considered that the differences were currently **small**. We set out in this sub-section our assessment of how these affect our estimation of the effect of separation on consumers.*

*6.77 As discussed in paragraph 6.67, some (but not all) **CMCs/CHCs provide a replacement car when liability is disputed or uncertain** (which an at-fault insurer is unlikely to do), and hence it is likely that some non-fault claimants obtain a benefit from a higher quality of service than in the absence of separation.<sup>45</sup> However, we sought to estimate the effects of separation compared to a **benchmark** where consumers' legal entitlements were **met in an efficient way** (see paragraph 6.3), and we noted our figures only took into account the **additional cost of credit hire compared to direct hire**, broadly the additional cost over the benchmark. We noted too that, while there would be a benefit to non-fault claimants of better service in regard to replacement cars, there would also be an associated cost to the at-fault insurer. We noted that when given the option (ie when buying a motor insurance policy), relatively **few consumers chose to pay extra for a like-for-like replacement** car.<sup>46</sup> This could suggest that the value to most consumers of a like-for-like replacement car (rather than a courtesy car) was fairly low and possibly below the cost of provision to the insurer. However, we recognized that it was difficult to draw inferences for consumers' preferences in a non-fault situation where they have an entitlement under tort law, from their choices when purchasing motor insurance (which was mainly relevant to at-fault claims).<sup>47</sup>*

We disagree with a lot of the comments in the above paragraphs. There is more criticism of the value of what CHCs do, than the benefits. We do not believe the public can decide in advance what policy they might want in the event of an accident. So we would not trust the CC's view on consumers not being willing to pay for hypothetical needs. [ REDACTED ].

But when they are **caught in a non-fault accident**, and are not captured by the insurer, they soon realise the value of our service at no charge to them, and with many benefits they can hardly refuse. These opportunity costs to hundreds of thousands of claimants are seriously **missed out** [ ✂ ].

*6.78 We were concerned to ensure that we took into account any benefits to consumers associated with our estimated costs of separation. We noted that some CMCs/CHCs **provided additional services** (see paragraph 6.36 and Appendix 6.5). We also noted that another consequence of some CMCs/CHCs providing a replacement car when liability was disputed or uncertain was that the cost of credit hire might include the costs of providing replacement cars to claimants **not ultimately judged to be in a non-fault position**; and that such claimants would derive a benefit from the provision of a replacement car which they would not otherwise receive.<sup>48</sup> However, we noted that the number of such claimants appeared to be **small**<sup>49</sup> and that consequently the total benefits received were also likely to be small.*

*6.79 We noted, however, that there was another difference associated with separation that went in the opposite direction. This was that some insurers required non-fault claimants to pay their excess towards the repair cost and recover it themselves from at-fault insurers (see paragraph 6.34).*

*6.80 In summary, we considered that our cost figures controlled for most quality and service differences. We noted that some of the service differences we identified may involve a claimant receiving their legal entitlement, or help in pursuing their legal entitlements, where this might not be available in an alternative scenario with no separation. We considered, however, the service differences identified above to be small and not such as materially to qualify our findings in relation to the net effect of separation discussed below.*

*6.81 As already noted, we **accepted** that the existence of CMCs and CHCs (which **only occurred** when there was separation) was likely to **give the at-fault insurer the incentive to provide a good quality of service to non-fault claimants**, and this is discussed further in our conclusion below.*

Para 6.81 gives some comfort that the CC recognises our value to consumers, as well as being a constraint on at-fault insurers abusing non-fault claimants. That conclusion is important for remedies. But at the end of Section 6 the CC again [ ✂ ].

## *Net effect on consumers*

6.82 We therefore **estimated the net effect on consumers due to changes in premiums to be about £150 million** (higher premiums associated with higher costs to at-fault insurers of **£249 million** less lower premiums associated with the net revenue stream to non-fault insurers of somewhat less than **£104 million**). Given that we had controlled for the effect of most quality differences in deriving this estimate (see previous paragraph), we interpreted it as an estimate of the inefficiencies associated with separation. We noted that the bulk of the net effect was attributable to the extra cost of credit hire over direct hire for replacement cars.6.16 ).<sup>50</sup> We noted too that the main reason for the inefficiencies of separation were the **excess transactional and frictional costs associated with credit hire**, although other factors such as CMCs/CHCs' lack of negotiating power might also play a role (see paragraph 6.16).

We dispute the derivation of the detriment regarding the comparison of credit hire with direct hire. We say the gap alleged by the CC does not exist, as discussed in detail in Appendix A6(1). We hope our comments from there will be taken into this section 6.

We would welcome the CC cross-referencing the above figures to the places where these workings are shown. We are not sure if we picked up all the points of discussion. We mentioned we would like a table showing the steps to the detriment range, as reported in para 6.84.

We also dispute the allegation of excess transactional and frictional costs linked to credit hire. We noted that they in fact, relate to the insurers, who are technically the debtors in this situation, and not CHCs who represent the creditors (i.e. claimants), once the insurers accept a claim. So the CC's reasoning is wrong on who drives unnecessary frictional costs – it is not CHCs/CMCs.

6.83 We recognized that there were a number of uncertainties associated with our calculation. As a check, we considered an alternative estimate using available figures for credit hire and credit repair revenue. Our figures above (see paragraph 6.17) suggest that the excess cost of credit hire over direct hire less average referral fee paid is £300 per hire **or 21 to 27 per cent of the average credit hire charge** of £1,100 to £1,400. Given our approach to transactional, frictional and management costs (see paragraph 6.70(d)) and estimated credit hire revenue in 2011 of £663 million,<sup>51</sup> this implies consumer detriment from credit hire of **£140–£180 million**.<sup>52</sup> A similar approach for credit repair suggests a further consumer detriment of about £35 million,<sup>53</sup> implying a total consumer detriment of about £200 million. These figures also suggest that the bulk of the additional costs are attributable to replacement cars rather than repairs.

We have some real concerns in this paragraph which relate to the estimated credit hire turnover figure of £663 million. This appears to be a figure provided by the CHO in 2011 and it looks too high. When comparing the size of our own business (estimated market share) and its turnover from credit hire alone the amounts do not correspond. We believe this estimated figure of £663 million to include other areas of income, as well such as credit repair. Again using Kindertons as an example, credit repair this year will account for circa  $\frac{1}{3}$ % of our total turnover (£ $\frac{1}{3}$  million out of £ $\frac{1}{3}$  million). There will then be other areas of income such as recovery, storage PAV pass-through as well.

If the CHO simply used “companies house” data the credit hire turnover will not have been shown, hence where the mistake has occurred. It is further expected that the sector has constricted since 2011, the impact of at-fault insurers capturing more claims for one reason, the demise of a large **CHC Drive Assist** in 2012 as another, and the general reduction in motor claims in this period as a third driver.

We therefore disagree strongly with the CC’s rationale in using the £663 million as a form of alternative calculation. If the CC does want to develop this thinking further we would suggest it ensures that it is using the correct figure, which should be straightforward; i.e. make a request to a number of CHCs asking for their credit hire turnover and then a subsequent request from a number of insurers requesting the respective market size of each of the CHCs will help. By using both sets of data the CC will be able to identify a more accurate total turnover figure for the industry as a whole.

We go back to the same question asked a few pages earlier; the onus is on the CC to say how we (and other CHCs) **could survive with loss of some 25% of our revenue**, under a CC remedy meant to achieve what is noted above. We understand the CC thinks we can simply cut-off our referral fee spends to balance up with the new lower income. In reality, the imposed change [  $\frac{1}{3}$  ]. The failure to spend on referrals [ REDACTED ]. **Just like PCWs can not survive without income**, [ REDACTED ].

The CC needs to also look on the impact of the smaller brokers, and other intermediaries who will lose this referral fee income. They too might lose too much to remain viable.

The CC is aware that Drive Assist went out of business in 2012. That is a very powerful reason for the CC to be extra cautious at the damage its remedies might do, however well intentioned.



*6.84 Taking both calculations into account, we estimated that the net effect on premiums was about £150–£200 million. Since the estimated GWP across the motor insurance industry is about £11 billion across about 25 million policies, the net effect we have estimated corresponds to 1.3 to 1.8 per cent of the average premium, or about £6 to £8 per motor insurance policy.<sup>54</sup>*

It is interesting that the alleged detriment boils down to a maximum of £8 a driver for replacement cars, repair and write-off issues. We dispute this figure as too high. But set against the questions we have raised above, the CC's remedies do look *incongruous*. Does the CC seek to destroy our sector with £700 million (total) annual revenue, and 300,000 consumer clients (and their families, etc.), for roughly the price of several cups of coffee at say, Starbucks [**over a year**]? When this is balanced [ REDACTED ].

The main insurers have lots of costs, and [ ✂ ] Yet we have been [ ✂ ] accused of creating frictional costs, etc. Given that our clients have a legal right to recover their losses, they are technically creditors. [ REDACTED ].

Perhaps the roundtable meeting will clarify this and many other significant open questions in this detailed response.

## *Effects on competition*

*6.87 We have provisionally found a number of direct and indirect effects associated with this opportunity to **earn a rent**:*

*(a) Claims handling and car hire intermediaries charge at-fault insurers **more than the cost incurred, leading to disputes with at-fault insurers and a high level of frictional and transactional costs**. Claims handling and car hire intermediaries in turn compete to obtain work via referral fees and this provides non-fault insurers, brokers (and others) with an opportunity to earn a rent.*

*(b) Some, but not all, non-fault insurers directly charge at-fault insurers more than the cost of repairs incurred (though the practice of one insurer is currently subject to litigation in the appeal courts).*

*(c) When cars are written off, at-fault insurers may not receive the full salvage value of the car.*

*6.88 Associated with these effects, we have provisionally found that an **inefficient supply chain, involving excessive frictional and transactional costs**, has emerged. Insurers and brokers are competing to find ways of earning a rent from their control of non-fault claims, rather than simply 'competing on the merits' (ie offering the lowest price and best quality of claims handling and other service to*

*customers). Furthermore, since the greatest effect is on drivers with the most adverse risk factors, prices to individual drivers are not fully reflective of expected costs (see paragraph 6.65). These are not aspects that would be observed in a well-functioning motor insurance market.*

*6.89 We noted that these effects were currently greatest in the provision of replacement cars which is **usually via credit hire** when there is separation (see paragraph 6.82). The effects are currently smaller in repairs and write-offs where different non-fault insurers have different practices; and frictional and transactional costs are currently lower. We noted, however, the ongoing litigation over repair costs and that, depending on the results of this litigation, frictional and transactional costs in repairs could increase.*

We dispute the pejorative language, such as earning a rent in para 6.87. Our sector does not have monopoly power, and we can not exploit major insurers. We believe the language should be changed because it is not true.

We do not accept para 6.87(a) for the many reasons given in this response.

Issues 6.87 (b) and (c) when evaluated as a detriment per car driver is almost trivial in the context of a £10 billion insurance industry.

Para 6.88 does not seem to apply to CHCs so if the CC's narrative on 'rents' excludes CHCs, we do not object. As said, it needs to **clarify** who is targeted by such language, we do not even accept the AEC1 detriment for reasons in this response, and supporting response to Appendix A6(1).

If however the CC's comments are suggesting that this 'rent' is expressed as 'referral fees', we see the insurers and brokers as intermediaries who are doing an important job linking claimants to CHCs to benefit from our valuable service. This is in the public interest for which they should be rewarded with some remuneration. This creates a **virtuous circle**. Alternative marketing methods will not be as well targeted as intermediaries with direct link to claimants, with whom the at-fault insurer has either refused to capture, or turned away. CHCs fill this service gap in the public interest. A multitude of car drivers benefit from this service for free. The entire structure is pro-competition and pro-consumer.

- Clearly the level of commissions/referral fees is a market led figure, as can be seen by comparing the level for credit repairs, with that for credit hire. If the CC can lower this level that is not something it has put in its remedies. Without referral fees the flow of clients may become **erratic** leading to dis-economies of



scale, and harm to CHCs. Is any of this **justified for up to £8 a premium**, based on the CC's alleged calculations? We think not.

As said, when the issue of frictional costs is properly considered, it is the insurers who have greatest control of this factor. [ REDACTED ].

*6.90 We considered the implications of separation for services. We did identify some service differences but found them to be **small**, and not such as to materially qualify our findings. We considered that it may be **appropriate to take into account some of the service differences as part of our consideration of remedies**. CHCs/CMCs said that an **at-fault insurer's incentive was to minimize its costs**—an at-fault insurer did not have any incentive to provide non-fault claimants with a quality replacement car or indeed with a replacement car at all. They suggested therefore that, in the absence of credit hire, non-fault claimants would receive a lower quality of replacement car than they did now, for example a basic courtesy car or no replacement car at all. **Our concern is not with the existence of credit hire or credit repair as such** but with the inefficient supply chain, involving excessive frictional and transactional costs, and other effects associated with separation. It is these effects that represent a departure from a well-functioning market. We recognize that the current existence of alternative providers as a result of separation is likely to provide at-fault insurers **with an incentive to provide a good quality of service and consider that this can be appropriately taken into account in our assessment of remedies**.*

The above is good in parts but not the whole truth. We say that in the absence of CHCs, the at-fault insurers would send away great numbers of non-fault claimants who would have no-one effective to represent them to press home their legitimate claims. The impecunious would suffer severely from this handicap. But the CC ignores them, and they make a large proportion of the UK driving public.

So there are problems with the CC's thinking, [ REDACTED ]. We consider our side of the supply chain is efficient.

[ REDACTED ]. We are not the cause of what the CC calls excessive frictional and transactional costs. It is a simple matter of logic – i.e. our clients are claimants or creditors. The insurers are debtors, so they drive the need to spend money on litigation **if** the insurers unjustifiably refuse to settle claims within the GTA framework.

We say for those outside the GTA, that the CC can easily resolve those situations by strengthening the GTA and making sure it applies to all CH and CR providers in this sector.

We do believe relevant customer benefits are important, as we noted in our response to the Remedies notice. We hope the CC has noted the points we raised.

## **Conclusion**

We believe the above is a comprehensive response to Section 6. We hope it assists the CC. There are numerous issues of dispute, and we hope to see progress at the forthcoming roundtable. We look forward to updated versions of Section 6 and its supporting App 6.1.

We hope that [ REDACTED ]; which has in turn created a negative representation of the Credit Hire sector. [ REDACTED ] and trust this narrative reflects our passion for our business and industry, notwithstanding our dedication to the protection consumer's rights.

Once again we invite the CC to our offices to see how we operate as we believe this transparency is integral to the CC understanding how and why we differ from Direct Hire businesses. We are fighting for our industry, innocent motorists and seek recognition that what we do is just and ethical.

We thank the CC for reading this response, and the accompanying documents

**Kindertons** 7 February 2014

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