

NB this is redacted version for publication



## Private Motor Insurance Investigation

Response to Provisional Findings

Appendix A(6)1

Cost of replacement cars

Kindertons Accident Management

7 February 2014

**Note** – see also our important separate responses to (a) Section 6 of the CC's provisional findings, and (b) our response to the CC's Remedies Notice

## Table of Contents

	Page
<b>Introduction</b>	3
Response to the paragraph in appendix A6(1)	4
Cost of replacement cars	5
Credit hire	6
The GTA	6
Direct Hire	10
<b>Alternative model – [Enterprise]</b>	13
Comparison of the cost of credit hire and direct hire	14
<b>Challenges regarding Annex A</b>	15
Summary of our differences with CC thinking on the Credit hire versus direct tire comparison	19
Hire duration	23
<b>Daily rate – Table 6 refutation</b>	25
Overall credit hire daily rate - i.e. overstating figures	29
<b>Table 1A and 1B – refutation work</b>	30
Average insurer direct hire daily rate – ie understating figures	35
Comparison of the two sets of rights	37
Further representations to the CC decision-makers	40
Analysis of the cost of credit hire [referral fees, credit fees, admin]	40
Referral fees	44
<b>Bad debt provision [mostly settlement discounts]</b>	48
Cost of credit	55
<b>Administrative costs [concept of avoidable costs]</b>	56
Mr [X] claim – example of avoidable costs	59
<b>Frictional costs [mislabelled]</b>	63
Frictional cost incurred by at-fault insurers	69
Mitigation strategies	75
Repair duration	79
Role of the GTA	81
Conclusion	82

## 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, in particular **Section 6 and its supporting Appendix 6.1**, 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.

[ REDACTED ].

This submission will be structured in two parts, one addressing the **CC's Appendix A(6)1**, and another document addressing Section 6 of the Provisional Findings Report. We believe that any changes to Appendix A6(1) which the CC makes, need also to be taken to Section 6, as necessary, even if we have not made the point explicit in our text below. This will arise where work from the Appendix is used for the CC's narrative in Section 6.

We now turn to the substance of the CC's work to date which we believe has significant impact on our business. Where necessary, we re-produce the CC's text and then make our comments. [ REDACTED ].

[ REDACTED ].

## Response to the paragraphs in Appendix A6(1)

There are high level points of disagreement between us and the CC on the nature of its analysis in this Appendix, which we note also flow into the work in the CC's section 6 of its provisional findings. We note such issues here, and may have to repeat them, or cross-refer to them, as needed in our response to Section 6. We hope the CC's Panel will engage with us to resolve these **highly contentious matters**, before the report is completed.

[ REDACTED ].

We also draw the Panel's attention to our Response to Remedies which also have significant impact on the contents of Appendix A6(1). Specifically we believe many areas of important work were (a) not done to date, or (b) not done well enough, [ REDACTED ].

The CC should see this response as a working document so that there is no misunderstanding where we disagree with the CC's work to date, and what more we believe is needed for robust conclusions. As we now move through Appendix A6(1) we will show the CC's relevant text in **blue**, and then show our comments therein. There are key areas within the Appendix, with which we have significant concerns, and these sections may also relate to issues with other paragraphs within the CC's final report (or Section 6). These key areas are contained within the following sub-sections:

Paragraph 18	Alternative Model
Paragraphs 20-24	Comparison of the cost of credit hire and direct hire
Paragraphs 31-35	Daily Rate
Paragraphs 38-41	Referral Fees
Paragraphs 42-53	Bad Debt Provision
Paragraphs 54-55	Cost of credit
Paragraphs 56-86	Administrative Costs
Paragraphs 96-98	Role of the GTA

## Cost of replacement cars

Firstly because of the complex issues raised in this Appendix, we think it deserves a table of contents so its structure can be understood from the outset. Moreover, there is even an Annex to this Appendix, which shows important CC analysis, but no-one would know about this without working slowly through this document. [REDACTED]. This concern may also apply to other Appendices, longer than 10 pages.

### Introduction

*1. In this appendix, we assess the cost implications of separation of cost liability and cost control. As discussed in Section 6, this is the case when non-fault claims are managed by the non-fault insurer or by a CMC, rather than by the at-fault insurer itself.*

*2. The appendix is structured as follows:*

*(a) comparison of credit hire and direct hire costs;*

*(b) analysis of the cost of credit hire, including (i) the payment of referral fees by CMCs/CHCs to non-fault insurers and brokers (and others) in order to provide credit hire services; and (ii) the frictional costs incurred by both insurers (at-fault and non-fault) and CMCs/CHCs in relation to the provision of credit hire services; and*

*(c) analysis of the duration of credit hire.*

The CC's intention to make a 'comparison of credit hire and direct hire costs' is stated here immediately. As will be apparent from our response, there are no like-for-like comparisons of this. The work in this area is totally superficial and we dispute the underlying thinking and the logic. A lot of the basic data is concealed from us. There is no analysis of exactly what a direct hire business consist-off in terms of numbers, data, or anything relevant to make a comparison valid. Equally serious, there is similarly **nothing** on what constitutes a credit hire company (CHC) and what investments in infrastructure exist for a CHC to be viable; or what its customer base consists of, how it obtains its customers; and how it is remunerated? These critical questions for any reader of this subject are all left unanswered. [REDACTED].

### **Credit hire**

*3. If a non-fault insurer or broker controls a non-fault driver's claim, the driver often receives a replacement car from a CMC/CHC under a credit hire agreement, following a referral to the CMC/CHC from the broker or insurer (for which the broker or insurer earns a fee). Assuming that the CMC/CHC also assesses the driver to be non-fault, the CMC/CHC typically provides a like-for-like replacement car, subject to the driver's duty to mitigate their loss with consideration to their need, and will recover the cost from the at-fault insurer.*

*4. Nine of the ten motor insurers in our sample told us that they usually referred their non-fault drivers, with the driver's consent, to a CMC or CHC for the provision of replacement car services under a credit hire agreement.<sup>1</sup>*

We believe that the last sentence of paragraph 3 needs additional narrative. It makes the process sound very straightforward whereas in reality it can often not be the case. There is no mention of the time it takes for at-fault insurers to settle credit hire claims, [ REDACTED ]. If required we can assist with this through our own time and motion studies which measures each task within the claims process. [ REDACTED ].

Regarding para 4, we observe that the footnote is misleading. CISGL also uses a CMC/CHC, but the CC text does not note that it provides this service, via its separate group CHC. Accordingly, the narrative here should say all the 10 motor insurers in our sample (as well as all the brokers) refer their work to CHC's etc. We would ask the CC to add a further comment stating that this evidence leads to an inference that CHC's are providing a very valuable service to these major insurance groups and brokers. [ REDACTED ].

### **The GTA**

*5. Nine of the ten motor insurers in our sample subscribe to the GTA.<sup>2</sup>*

*6. The GTA is a voluntary non-binding protocol which sets out the arrangements between insurer and CMC/CHC subscribers for replacement car provision under credit hire to non-fault drivers. It was established with the intention of removing confrontation, avoiding costly litigation and encouraging collaboration in the management and settlement of credit hire claims.*

*7. Although subscription to the GTA is voluntary, the Credit Hire Organisation (CHO) told us that it estimated that the GTA was supported by CHCs/CMCs and insurers that accounted for about 90 per cent of the credit hire market in the UK. According to*

*the CHO, about 77 per cent of credit hire and credit repair claims are settled under the GTA (see Table 2). The remaining cases are either handled outside the GTA from the outset, or are handled initially within the GTA but then 'fall out'. The latter are settled through negotiation and, often, litigation.<sup>3</sup>*

We add the CC should note this shows the importance of the GTA as an industry solution, which should only be modified with care. The GTA is pro-consumer and pro-competition. As we noted in our response to the remedies, we believe that the GTA should become mandatory for Insurers, CHCs and CMCs which will only improve its effectiveness.

Regarding Para 6, the text does not say when the GTA was established. This is needed to show this industry solution has been long-standing.

We believe the text should have the following: ***“to date the GTA has been a very successful model, which evolved with the support of all the stakeholders ie insurers and CHCs. Its work on prices is set by a technical committee consisting of 2 groups of six representatives, each from the insurers and CHCs. This process ensures that CH charges are set to fairly reflect the costs of CHCs and take account of the interest of the insurers to not overpay the CH charges.”***

The text in Para 7 needs expansion for factual evidence that is not properly narrated. Cases fall outside the GTA if not resolved within 90 days. The text does not show this important point which should give an incentive to insurers to resolve matters within this 90 day window. Clearly by doing so, they will benefit from the GTA rates. [REDACTED].

Our amendments as noted above, makes footnote 3 redundant. Generally, we believe footnotes should be in the text **if they are relevant** to support the narrative.

- We also note that footnotes sometimes have very important information regarding our business and its significance. We want such text in the actual report, [ REDACTED ].

We add that the CC should have concentrated its work on the cases settled outside the 90 days GTA window. We are not sure whether this has happened. If the CC has done this work, it will be able to determine the reasons for these failures of service i.e. was the fault that of the CHCs or the insurers? This appendix and other appendices would then have been written to show the reason why these failures happened.

In the case of **Kindertons**, we believe we do our job very well. For example, over the last six months, the cases going over 90 days were less than 10% which means nearly 90% in 10 cases were settled within the GTA. Even more impressive is that cases paid within 30 days has gone up from 10% in 2012 to 10% for the last six month period, this illustrates that the GTA has improved over this time and importantly since the period that the CC carried out its analysis.

This is powerful evidence to show we are doing a successful job on behalf of clients and insurers which the CC's narrative omits either in this sub-section (to demonstrate the value of the GTA), or throughout the rest of the appendix. Indeed, from the CC's text later in its section on bad debts (see from para 42), the CC completely misunderstands the dynamics in some cases i.e. the insurers obtain discounts *for prompt settlement*, rather than write-offs *because of overcharging*. [ REDACTED ].

We also think the text from para 96 dealing with the role of the GTA needs some mention in this earlier section.

TABLE 2 Credit hire and credit repair claims settled under the GTA, 2009 to 2011

	2009	2010	2011
Proportion of credit hire and credit repair claims settled under the GTA (%)	76	77	77
Credit hire and credit repair claims issued under the GTA	23,500	28,400	19,200
GTA claims resulting in a court case	2,290	2,270	1,590

Source: The CHO.

We believe the above table is misleading. It should also include the number of successful cases which are around **280,000 a year**. No reader therefore would know the significance and value of what CHC's do for innocent motorists (and their families) under the GTA protocols. [ REDACTED ].

We also don't understand what positive message about our role, as shown in lines 3 and 4, is actually communicated to any reader. This form of presentation is again [ 10% ] misleading to under-emphasise our valuable service, provided at no cost to non-fault claimants. If the CC wishes to mention GTA claims for example resulting in court action, then it needs to look into every claim and identify whether the insurers were at fault. Otherwise such data needs to be removed. The way the table is constructed, it appears



as if the GTA and CHCs are the cause of faults, which is not true.

*8. The GTA covers the terms, conditions and rates of credit hire for replacement cars provided to non-fault customers in the UK. The overriding principle of the GTA is that whoever is first to a customer and obtains their agreement should provide the service and no other subscriber should seek to intervene. 'First to a customer' is defined as the receipt and acceptance by the customer of a suitable and clear offer. The GTA also applies pre-agreed administrative processes and pre-agreed maximum daily hire rates.<sup>4</sup>*

*9. The GTA Technical Committee is currently conducting a feasibility study into the establishment of a GTA portal, which would be an online tool to improve the management of credit hire claims and reduce administrative and frictional costs for both insurers and CMCs/CHCs. The concept has received backing from both insurers and CMCs/CHCs. Insurer and CHO members of the GTA have, through the Technical Committee, prepared a detailed technical specification for the portal and conducted a competitive tendering process which is nearing completion. Tender responses are in the final stages of evaluation following which members will be asked to carry out a cost benefit analysis in respect of the proposed portal as it relates to their own organization. At present it is possible that the portal could commence operating towards the end of 2014.*

We believe paragraph 8 is not complete. For example, the benefit of the GTA technical committee in setting CH charges is omitted. The CC also fails to recognise the significance of being 'first to customers'. This is a competitive dynamic, and pro-competition process – if insurers get to the claimant first, then they are obviously accepting fault. If however they are slow to accept liability, the non-fault claimant of course has the right to use a CHC to do their claim recovery work for them, and at no charge, whilst mitigating their loss.

We believe footnote 4 text should end up in the narrative of the relevant paragraph 8.

We also believe that the **portal** will be a very powerful pro-competitive force in our sector once it is operational. We have noted to the CC this is something we support.

Regarding paragraph 9, we believe the CC is not giving full prominence to the importance of the portal for the future, in lowering costs and improving benefits to customers. In our view, it is a **step change** in process of engagement between CHC's and insurers. We would like the CC to do work to show what level of cost savings should be expected from the introduction of a portal which would mitigate any alleged detriment

under AEC1.

## **Direct hire**

*10. Direct hire replacement cars are often supplied to non-fault drivers when the at-fault insurer captures and controls the non-fault claim or where there is a bilateral agreement in place between the at-fault insurer and the non-fault insurer or when the at-fault insurer is also the non-fault insurer.*

*11. Under a direct hire agreement, the insurer managing the claim arranges and pays for a replacement car through its contracted direct hire provider at pre-agreed rates. Six of the nine CMCs/ CHCs in our sample (Accident Exchange, Ai Claims Solutions, Enterprise, Helphire, **Kindertons** and WNS Assistance) told us that, as well as providing credit hire services, they also provide direct hire services to at-fault customers and captured non-fault customers (following a referral from the at-fault insurer).*

We have significant **concerns** with regard to the introduction of this section. If Direct Hire is to be suggested as a comparator to Credit Hire then at least the CC should outline how this model works. The following questions need to be addressed:

- Who are the direct hire operators under this section? Within our remedies response we have already stated we are not a direct hire business, less than ✂% of our business is associated with direct hire and we believe many of the CHC's listed in paragraph 11 will also not fall into this category.
- What is the turnover over the last five years of businesses carrying out direct hire activity – in this connection we do not mean businesses in our sector doing CH, but DH alone. We also would like to see the trend of this DH income alone, both over past years and into the future.
- What other activities do these direct hire businesses do?
- Who are their customers, other than insurers – and they need to be identified. The parties promoting this direct hire model should [ REDACTED ].

All this information should form part of this section of the CC's report to clearly identify the market it [✂] use as a benchmark model.

### *Non-fault party capture*

*12. Insurers told us that, when they were the at-fault insurer, they often attempted to*

*capture the non-fault driver, in order to control the costs of the claim, including the cost of replacement car provision. Table 3 shows the varied success of insurers in capturing non-fault drivers.*

TABLE 3 Insurer non-fault driver capture rates, 2012

	Third party capture rate %*
Admiral	[X]
Ageas Insurance	[X]
Aviva	[X]
AXA UK	[X]
AXA Northern Ireland	[X]
CISGIL	[X]
DLG	[X]
esure	[X]
LV	[X]
RSA	[X]
Zurich	[X]
Unweighted average	25

Source: Insurers.

\*The third party capture rate is the proportion of successful captures (where the at-fault insurer captures at least one element of the non-fault party's claim) from all capture attempts. Therefore, in part, the different capture rates represent the different degrees to which at-fault insurers attempt to capture non-fault drivers.

*13. At-fault insurers capture non-fault drivers by contacting them directly as early as possible following an accident where their customer appears to be at fault. They usually obtain the contact details of the non-fault driver from their customer during the FNOL process. Where the customer cannot provide full contact information, the insurer will use a range of easily available data sources to obtain or verify the details. For example, [%].*

*14. The majority of the insurers in our sample told us that [%].<sup>5</sup>*

*15. The main cost is from employing claims handlers to try to identify and contact these parties. esure told us that this claims handling cost was around £[%] per claim. LV told us that it estimated it cost around £[%] to capture a non-fault driver.*

Para 12 – we note no numbers are given. Nor are any numbers given regarding the content of table 3. As the CHC sector accounts for 300,000 claims, it is possible that insurers capture in the region of another 100,000. None of this essential information is given in the paragraph and it is therefore [X] **poorly drafted**.

Para 13 – no comment

Para 14 – **We object to the style of this paragraph**. There is no narrative at all on what has been excised and we have no clue to its significance. **We do suspect** it is important

information for the CC to use, but no justification on why the text has been concealed. We also object to the relevant footnote 5 also being concealed. [ REDACTED ]. Otherwise, the CC has no way of testing whether what it has been told is the whole truth. If the CC feels it needs to disclose this in a confidential manner to us, we are sure we can agree some procedure for this to be shared.

Para 15 – we think this narrative lacks context of the big picture. For example there is no narrative of the size of spend, and is this spending good or bad? We think there are other insurance costs omitted from the narrative especially as only two companies are mentioned. What about similar evidence from the other large insurers on this subject? [ REDACTED ].

*Bilateral agreements*

*16. Five of the ten motor insurers in our sample ([%]) told us that they had bilateral agreements in relation to replacement car provision with one or more of the other motor insurers in our sample (see Table 4).*

**TABLE 4 Motor insurer replacement car bilateral agreements**

[%]

Source: Insurers.

\*[%] bilateral agreement with [%] only applies to [%] brand.

*17. Where such bilateral agreements exist, at-fault insurers can avoid the referral of a non-fault driver to a CMC/CHC by the non-fault insurer and can reduce frictional costs by, typically, mutually agreeing to provide a replacement car to non-fault drivers at rates agreed between the at-fault insurer and non-fault insurer.<sup>6</sup>*

We request more narrative regarding the contents of Table 4. In its present form, it is totally **opaque**. We need to know what messages flow from the table.

[ REDACTED ] the disparaging language against CMC/CHCs: “... *at-fault insurers can avoid the referral of a non-fault driver to a CMC/CHC by the non-fault insurer and can reduce frictional costs by, typically, mutually agreeing to provide a replacement car ...*”

[ REDACTED ]. That is not the case and they are set annually to enable us to recover our costs. [ REDACTED ]..

As bilateral agreements are agreed between insurers, and affect us, the CC should expand upon the text, for example:

- by disclosing the volumes of cars involved in each class

## Non Confidential version – for the Competition Commission

- identify the value of claims (average and range)
- show total claims and the table should be over five years for each of the firms involved
- the average claim duration, and range of claim duration times should also be shown.

It will be an interesting comparator to note against what the CC suggests for CHCs. We may then comment further.

Regarding footnote 6, we think it should be in the text of the relevant paragraph, and expanded to show all is fair and reasonable. The CC will note that the font size of the footnotes is [✂] small so that readers may not spot new text in there. We have also noted some footnotes are even excised which is a further issue [ ✂ ]. For example, as we said before footnote number 5 is hidden from the reader with no explanation.

**We would also like to know why 5 of the biggest 10 insurers don't have bilateral agreements. So it is not a universal mechanism between insurers.**

### ***Alternative model***

*18. Enterprise told us that it had recently entered the credit hire market with a subscriber model for the provision of replacement cars to non-fault drivers. Enterprise told us that, where both the at-fault and non-fault insurer were subscribers to its model, it would pay the non-fault insurer a referral fee for referring the non-fault driver to Enterprise and it would invoice the at-fault insurer for (a) the cost of the hire and (b) the referral fee it had paid. However, the cost of the hire would be at contracted direct hire rates rather than at credit hire rates. The at-fault insurer would be required to pay the invoice within [%] days.*

[ REDACTED ].

**The Para 18 narrative is wholly inadequate [ REDACTED ].**

1. [ REDACTED ].
2. [ REDACTED ].
3. [ REDACTED ]..
4. [ REDACTED ]..

Further questions arise as a result of this paragraph:

- [ REDACTED ].
- [ REDACTED ].
- [ REDACTED ].

[ REDACTED ].

[ REDACTED ].

- [ REDACTED ].
- [ REDACTED ].
- [ REDACTED ].

[ REDACTED ].

#### **Northern Ireland**

Para 19 – no comment.

### **Comparison of the cost of credit hire and direct hire**

20. We asked the ten largest motor insurance providers to provide us with data on replacement car costs between 2010 and 2012. Five of the ten insurers provided us with data which we could aggregate and compare. We compared 'third party non-fault' data (ie the costs subrogated to at-fault insurers) with two benchmark scenarios: captured claims and claims where the at-fault and non-fault insurers were the same. **Annex A** explains the reasons for our choice of data.

21. Figure 1 shows the **average replacement car costs** by insurer and claim type in 2012.<sup>9</sup>

#### **FIGURE 1**

*Average replacement car cost by claim category and insurer, 2012  
[%]*

*Source: Insurers and CC analysis.*

*Notes:*

*1. [%] and [%] number of observations for 'same insurer' costs are very low so these results should be interpreted with caution.*

2. [%] figures are for 2011 to enable better comparability.

We see no explanation why five parties were not able to provide satisfactory data to the CC. [ REDACTED ]. That failure should make the CC question whether it should be taking account [ ✂ ]. Moreover it is possible that their missing data means the information used by the CC in **Annex A** is distorted and **worthless** – eg if they are larger insurers, the loss of relevant information creates questions on interpretation of results. How do we know that the remaining five parties had data [ REDACTED ].

We cannot meaningfully interpret the second and third sentences of para 20. They look like the CC have recognised **a serious problem** and know their work is irrelevant. [ REDACTED ].

We show for example paras 2 to 5 from the Annex in the footnote below<sup>1</sup>. The narrative is **almost impossible to penetrate**, [ REDACTED ]. Moreover:

- What is the context of paragraph 2? We have no idea what this paragraph is

---

<sup>1</sup> Annex A unreliable data, and poor CC narrative as follows:

***Other issues with the data***

2. [✂] told us that, when it controlled both the at-fault and non-fault claims arising from an accident (ie in both of our two alternative benchmark scenarios), it did not record separately in its systems the costs of the two claims. Rather, it recorded the costs together. Therefore, to answer our data request, [✂] provided an **estimate** of its non-fault claims costs in our benchmark scenarios by **allocating** 53 per cent of its total costs in these scenarios to the non-fault party.

3. [✂] told us that it did not record claims data in its systems in such a way as to be able to identify which claims had been processed under the terms of a bilateral agreement. As such, its data for first party non-fault claims might be understated as some claims in this category might have been handled in a way to limit costs to some extent.

4. [✂] told us that some of its ‘same insurer’ claims **might** have included some elements which were managed, at least initially, by another party. As such, its costs in this category might be overstated since it might not have been able to exercise control over all areas.

5. Finally, the summary statistical analysis we have conducted does not control for all **other possible factors** which might give rise to differences in claims costs between the scenarios we have considered. Therefore, there **may be other factors** which explain some of the differences we have found, **which we have not analysed**.

trying to say in terms of trusting the logic in this assumption. The CC seems to have taken a **guess at 53%** and this may be materially wrong. [ ✂ ].

- Paras 3 and 4 Annex A – same objections as for para 2. The data is concealed in para 3 and looks unreliable for further use.

Para 5 Annex A – the text is again unsatisfactory and we assume unreliable. The CC notes its analysis does not control for many factors. Accordingly how can the CC consider this work is useful for its purpose? [ REDACTED ].

**We challenge the CC that unreliable data produces unreliable results, which are worthless for taking forward to conclusions and major decision.**  
[ REDACTED ].

We looked at the tables in Annex A. They too are not useful, and for example, we reproduce table 1 below for illustration purposes, but reject the comments reported by the CC:

### Data tables

TABLE 1 Average replacement car costs by claim category and insurer, 2012

	<i>Third party non-fault</i>	<i>Bilateral</i>	<i>Captured</i>	<i>Same insurer</i>
Admiral	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
esure	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
LV	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
RSA	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
DLG	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
Average	1,413	N/A	478	369

Source: Insurers.

---

*Notes:*

1. The averages presented in the table are simple averages of each insurer's individual average. We present this information for exposition purpose only.
2. N/A = not applicable (because there are no bilateral agreements) or not available (because the data was not provided).

### ***Our comments on above sample table 1***

The table shows the first column average i.e. third party non-fault (i.e. Credit Hire) prices are superficially higher than averages for captured or same insurer (i.e. columns 4 and 5). We do not see the relevance to this comparison. Without direct comparison on a line-by-line basis of the actual replacement car claim [based on equivalent facts] for each insurer, and the 4 situations noted above, the data is **unreliable**. Our concern is that the CC has used the superficial differences in totals



from the columns to reach incorrect conclusions. The adjustment process to make each column like-for-like is not explained [ ✂ ].

To explain our view, the Credit Hire average at £1,413 could be more than the other averages for the simple reason that the Credit Hire claims have a **longer duration** (i.e. they are more complex claims with more damage, and need for claims supervision over a longer period). By definition, credit hire for say 20 days will cost more than a simple [repair] claim taken by the insurers under the **captured route, which may only be**, say seven days. So any attempt to make a meaningful comparison is in our view, [ REDACTED ].

We also note the bilateral column has no information. We don't understand why? Again the whole analysis looks like something constructed [ REDACTED ]. But as we have said many times, credit hire is a **service** (to consumers like legal aid), and it is not a simple car hire offering to individuals. The only way individuals can obtain a car hired on retail terms is via basic rentals which are more expensive than our credit hire rates (and which the CC has also sought to ignore because this works **in favour of Credit Hire**).

We note that the higher Basic Hire rates are accepted by the Courts, and we believe this should be the **comparator** to consider Credit Hire charges. The CC does not say **why** it does not follow this similar principle. So it seems to have gone down the route where it has reached dead ends, and inserted a *false comparator*, called Direct Hire, which [ REDACTED ].

- We note the Direct Hire rates are not offered in the public domain, and may *never* be available on any scale to cover costs of such a free-standing operation. [ REDACTED ].<sup>2</sup>

The lack of data here also should lead to concern as to whether any new alternative model by the CC **is workable in practice**. Clearly many of the insurers (as noted by the CC) were not able to provide reliable data to the CC, in a transparent way for the CC to disclose to us.

---

<sup>2</sup> Without doubt, we think [ REDACTED ].

We object to [ ✂ ] **concealing what should be open non-contentious data, for us to consider**. So how can the CC know the new system it advocates is more efficient, and really less costly than Credit Hire? How has the CC taken account of sensitivities in its assumptions, and negative side-effects? In our view the alternative [Direct Hire] model, which the CC proposes to replace Credit Hire with, is [ ✂ ] analysis/comparisons. We do think the CC has reached a dead-end [ REDACTED ].

To summarise (once the source data is judged reliable), we believe:-

- (a) the CC needs to give credible explanations on why the results for the different columns should be comparable, and all distortions have been removed.
- (b) then it needs to explain in particular why averages in different columns actually are different and what factors have been included or excluded to make them meaningfully comparable for decisions.

Only then, can the CC attempt a comparison. All this necessary work is missing, so we can not accept the results from these tables. As said, they were constructed [ REDACTED ]. But that view is based on an error of principle, namely Credit Hire is a service to customers which the insurers do not provide, and would not provide adequately and satisfactorily, without the stimulus of CHCs. The Credit Hire charge must recover all our costs in servicing our client base, which Direct Hire operators never have to do (and benefit from the at-fault insurers carrying such equivalent costs, off the books). So comparisons like this are false. [ REDACTED ].

As said before, the CC is aware that CHCs collectively handle some 300,000 non-fault driver's claims a year (benefitting perhaps more than **1 million** people from the good service we provide). We get little recognition that our role deals with the more complex claims which insurers refuse to accept readily via their capture teams, nor settle quickly. These are faults with the Insurers, and the CC has missed its target by pointing blame on CHCs. Why are the insurer's capture team costs, etc., not added to the direct hire costs? Clearly, our cost can be higher than the insurers will pay for the simpler direct hire car rate, but the service element of our role to consumers is of great value. This is entirely missed in the Table 1 comparisons, and throughout the CC's Appendix A6(1). [ ✂ ].

## Non Confidential version – for the Competition Commission

Therefore, when making a straight comparison between alleged average costs of Credit Hire charges and Direct Hire charges, the CC **needs to adjust for the broader consumer and market benefits, and factors noted above**. Otherwise the comparison is flawed, which is how this subject is inadequately addressed in Annex A and the Appendix A6(1),

We say that when the CC makes all the adjustments, as for example noted above, the Credit Hire average charges would be cheaper and more valuable than alternative models.

None of the above is factored into the CC's Annex A analysis, nor is it covered in the relevant sections of Appendix A6(1), or other Appendices. Nor is this taken into the relevant section 6 of the CC's Provisional Findings. [ REDACTED ].

**Adding to this confusion**, we have asked the CC for access to its data on the figures in these tables, and information in eg Table 6. This has been rejected. A recent communication from the CC dated 30 January 2014, has asked Kindertons to provide justification for its request::

*“On your second point, The Group is considering your request. As you are aware the Group has to give careful consideration to its rights and obligations under Part 4 and 9 of the Enterprise Act when considering such requests. To assist us in our assessment, please can you provide a detailed explanation of the scope of the requested information, specifying which tables or paragraphs in our Report contain the information relevant to your request. Please could you also explain why it is necessary for you and/or your advisers to have access to each set of information to prepare a response to/comments on the evidence set out in the Report. Please explain how you or your advisers intend to use this information (and for what purpose), clarifying whether you would review specific economic models used in the Report (and which), assess the requested data against information you have, or take any other step.”*

We hope our comments above give reasons for this request being approved.

### **Summary of our differences with CC's thinking on the CH v DH comparison**

Given our comments above, we hope the following assists the CC:

- (a) We fundamentally disagree with the CC's use of direct hire rates to compare to credit hire rates, or average Credit Hire and Direct Hire charges (based on aggregate spending and number of claims). Reasons have been given in many places that these two services (and therefore their charges) are not in the same market/segment, and they do

not serve the same customers directly. Direct Hire is not advertised, and the rates are an “invention” between the insurers and their ‘agent’ providing the direct hire service.

- (b) Direct Hire is for insurers a surrogate in-house agency service (on the instructions of at-fault insurers to their captured claims’ drivers). This type of service is not in our client’s interest, which represent the 64% of claimants who are not captured by the insurers. These comprise hundreds of thousands of non-fault drivers, caught in accidents every year, and who are drawn to the services we provide by word-of-mouth or referrals from intermediaries. We say that without CHCs, insurers will not provide our service direct to this population of consumers. They are 3<sup>rd</sup> parties, and not the insurers customers – they therefore do not come under the FSA rule to ‘treat customers fairly’!
- (c) The CC also needs to realise we provide our service (at no charge at point of need), and without us, these claimants would be forced to resort to (i) the Courts to recover losses; or (ii) accept their losses; or (iii) go to the Ombudsman (if possible); or (iv) suffer loss of excess and NCBs and perhaps recover only partial losses. None of this is in the public interest, nor benefits consumers. All is ignored in the Table 1 superficial comparisons – **we object to these omissions of important facts in our favour.**
- (d) The further absurdity of the comparison between our average charges and [arbitrary] average direct hire charges is equivalent to a Regulator suggesting regulating *BT fixed line* charges, based on using *mobile phone* costs and prices as a benchmark. Or a Regulator saying it would regulate *gas* charges, using *electricity* charges as a *comparator* because they are ‘cheaper’, or vice versa. These services do similar things e.g. telephony, or heating, but they are based on totally different cost and operational structures and serve different markets/segments. Anyone would say this is irrational thinking, but that is what we have found has happened against CHCs in the Provisional Findings, and the analysis noted above.
- (e) We also note that the CC has failed to properly note our value and service (over several years) to potentially millions of non-fault claimants and their dependents, families and employers from our role. Not accounting for these benefits lead to a mistaken view that Direct Hire is cheaper than credit hire. That is not so, and the value of what we do, compared with the at-fault insurers **lack of service incentive to take-on our role in-house**, means the comparison is wrong. Enterprise as an agent for insurers will not serve some 64% of claimants who we CHCs currently handle to their benefit via a one-stop free mediation and settlement service, at no charge.
- (f) The CC must realise self-supply of non-fault claims management via the at-fault insurer gives them too much power to abuse the consumer, and there is nothing to balance this

asymmetry of power at their time of need (after a non-fault accident). And based on the CC's calculations that the **alleged detriment** in Table 6.4 (of Section 6 of the PF) is **£98** million, this equates to only £4 a year, spread over 25 million drivers in the UK.

- (g) In our view, the damage the CC intends to do to our sector, and the public we serve via for example its Remedies 1A and 1B is massively **greater** than this potential £4 saving in insurance premiums. How this £4 premium reduction might happen, is another area of total speculation, but **the CC's intended impact from these remedies is directly on our revenue, and ability to earn our revenue via a free service to consumers.**

Whether the public even wants this trade-off **imposed on them is another mystery not explained in the PF. We do want this evaluated in the CC's final report.**

- (h) We think the data from insurers is flawed. Hence the crude results shown in these Annex A tables is meaningless without rigorous analytical comparison, as discussed above. As said, Annex A already mentions the weak foundations of the data, placing doubt on what is shown therein.

We hope this response will now ensure the CC gives open access **on this important issue to the Data Room for us, and the rest of our sector.** If any providers of the data might still want secrecy, we think their data should be excluded from the CC's analysis in these tables. If that means the Tables are scrapped, that is the right decision because the evidence is clearly tainted.

- Alternatively, their objections to data disclosure could be put on the CC website, with a clear statement of how the CC wishes to adjudicate this issue, which currently favours the insurers (and others) [ ✂ ] data, at our expense. We will then know what more we need to say or do to get justice on this issue

## **Tables 4 to 6 of Annex A**

1. We note these are simple differences between columns for the 5 companies Admiral, esure, LV, RSA, and DLG. [ REDACTED ].

*22. Subtracting the average costs in the benchmarks without the separation ('captured' and 'same insurer') from the costs in the scenario with this separation ('third party non-fault'), we found that the average cost where there is the separation was higher than in the cases without. Figure 2 illustrates these differences.*

*FIGURE 2*

*Average cost difference, 2012*

*[%]*

*Source: Insurers and CC analysis.*

*Notes:*

- 1. [%] and [%] number of observations for replacement car costs and 'same insurer' are very low. Results should be interpreted with some caution.*
- 2. [%] figures are for 2011 to enable better comparability.*
- 23. Figure 2 suggests that the average increase in replacement car costs arising from the separation is between £570 and £1,400. The result is broadly consistent across the two alternative benchmarks used. The data provided indicates a similar result for 2011 and 2010 (see Annex A).*

We object to the above text, and the table in line with our comments above.

*23. Figure 2 suggests that the average increase in replacement car costs arising from the separation is between £570 and £1,400. The result is broadly consistent across the two alternative benchmarks used. The data provided indicates a similar result for 2011 and 2010 (see Annex A).*

For reasons given above, we **reject the narrative** as wholly flawed and irrelevant. The text and meaningless numbers need to be removed. The information in this para is unfair, biased and prejudicial to our interests as CHCs doing a good job, in the interest of a large segment of the public and consumers. [ REDACTED ].

As said above, how has the CC tested this data, and results as being reliable and worthy of note? [ REDACTED ]. For reasons given above, there is no objective benchmark used in the CC's analysis and conclusions, All we have are random pieces of data, ostensibly provided by insurers, with no way of checking the validity, integrity, comprehensiveness, and accuracy of the data, and we dispute the logic in any event. [ REDACTED ].

*24. There are two problems with using these values as estimates of the effects on credit hire's cost of the separation:*

- (a) the data on the 'captured' and 'same insurer' scenarios may include cases in which a courtesy car was provided; the comparison with credit hire may therefore not be 'like-for-like'; and*
- (b) the cars in captured claims may tend to have a lower level of damage than in non-captured claims (see Appendix 6.2, paragraph 26); this could suggest that captured claims may on average require the provision of a replacement car for shorter periods; again, the comparison with credit hire may therefore not be 'like-for-like'.*

*25. Given these caveats, we decided to look separately at hire duration and at the hire daily rates.<sup>10</sup>*

The CC recognises itself from its narrative in paragraph 24 that the data and the results produced may be flawed for a number of reasons, and for this reason any conclusions from Annex A should be ignored.

## Hire duration

26. Table 5 compares the average credit hire and direct hire duration. The evidence provided by the ten motor insurers in our sample suggests that the average credit hire duration is about 3.7 days longer than the average direct hire duration. Although the evidence provided by the nine CMCs/CHCs in our sample was limited, where figures were provided, the average credit hire duration was longer than the average direct hire duration.

TABLE 5 Average credit hire and direct hire durations

Motor Insurer/CMC/CHC	Average credit hire duration (days)	Average direct hire duration (days)*	Difference (days)
<b>Motor Insurer</b>			
Admiral	[X]	[X]	[X]
Ageas Insurance	[X]	[X]	[X]
Aviva	[X]	[X]	[X]
AXA	[X]	[X]	[X]
CIS/GIL	[X]	[X]	[X]
DLG	[X]	[X]	[X]
esure	[X]	[X]	[X]
LV	[X]	[X]	[X]
RSA	[X]	[X]	[X]
Zurich	[X]	[X]	[X]
Unweighted average	15.5	11.8	3.7
<b>CMC/CHC</b>			
Accident Exchange	[X]	[X]	[X]
ACM†	[X]	[X]	[X]
AI Claims Solutions	[X]	[X]	[X]
ClaimFast‡	[X]	[X]	[X]
Crash Services§	[X]	[X]	[X]
Enterprise	[X]	[X]	[X]
Helpline	[X]	[X]	[X]
Kindertons¶	[X]	[X]	[X]
WNS Assistance	[X]	[X]	[X]
Unweighted average	18.5	13.5	5.0
Overall unweighted average	17.0	12.7	4.3

Source: Motor Insurers and CMCs/CHCs.

\*The direct hire data may include at-fault claims.

†ACM is a CMC and does not provide credit hire or direct hire services.

‡ClaimFast does not provide direct hire services, except as an outsourced function for [X].

§Crash Services does not provide direct hire services.

¶Kindertons' average credit hire duration is based on the average time taken to complete a credit repair (performed by Kindertons) on a repairable and roadworthy car.

27. The difference between the average credit hire and direct hire duration could in principle be due to:

(a) the mix of claims, ie with replacement cars for more complex claims, which

*require longer repair periods, being provided under credit hire;*

*(b) the under-provision of replacement car services under a direct hire agreement in relation to duration (though we have not found any evidence to support this view); and/or*

*(c) unnecessarily lengthening credit hire durations (eg by disproportionately booking in cars for repair on Fridays or returning them on Mondays, or by extending repair durations).*

*28. The first hypothesis is consistent with our finding that the average level of damage is lower for captured claims than for non-captured ones. Since direct hire is mainly provided in the case of captured claims and credit hire for non-captured ones, it is reasonable to expect higher average duration for credit hire.*

*29. We decided, therefore, to exclude the difference in hire duration from our analysis of cost differences. If part of the difference in duration is due to hypothesis (c), our estimate does not capture it and can therefore be considered a lower bound.*

*30. Evidence on point (c) is discussed more fully later in the appendix.*

There is no dispute that credit hire durations will be longer than direct hire durations for the reasons identified and contrary to what the CC states should be included in any calculation of like for like cost differences. Moreover, the data for the 3 insurers used in Annex A should be separately noted. How do their results compare to the averages in the table?

We note that roughly 4 days extra in the averages shown for direct hire (at around 12 days) to equate with credit hire (at around 16-17 days) is roughly **a 33% uplift over the direct hire duration**. We are wondering why the CC did not think this variation was significant for inclusion in its comparison, as appears to be its decision in para 29. [ REDACTED ]

We also have concern with reason 27(b). Here the CC says it found no evidence of under-provision of replacement cars [ REDACTED ].

Regarding 27(c), we think the CC later confirmed this does not happen. So why has this false trail been given such prominence in the narrative in para 27 and 30. All this may need deletion as misleading.



**Daily rate [and Table 6 refutation]**

*31. In estimating the cost difference between credit and direct hire, we focus on a comparison of daily rates. The daily rate is determined by the class of replacement car. For credit hire claims, the GTA sets the maximum daily rate for each car class. This, however, is not necessarily the rate charged to insurers. For claims settled under the terms of the GTA, a CHC may choose to apply a lower rate. On the other hand, at-fault insurers may pay more if they do not comply with the GTA timeline for payment. The GTA's guidelines specify that payment in settlement of a credit hire claim should be made within 30 days of the dispatch of the claim to the at-fault insurer. If payment is late, the outstanding amount incurs a late payment penalty at both 30 (12.5 per cent) and 60 days (20 per cent). A CMC/CHC is entitled to progress settlement outside the GTA (eg through litigation) if a claim has not been settled after 90 days from the dispatch of the claim to the at-fault insurer.<sup>11</sup> Finally, some hire claims are managed from the outset outside the GTA; in this case the daily rate is usually higher than the relevant GTA rate.*

*Footnote 11 Helphire told us that [%] per cent of its credit hire claims were not settled within 90 days.*

If the Helphire data in footnote 11 is not indicative of the Credit Hire sector, please can the CC provide the range? Clearly we would like to compare the sector's figures to our own data.

Regarding this text, we would like some acknowledgement that if or when the at-fault insurers allow a claim to drift beyond the 90 days GTA limit, **it may be their fault** in acting slowly over the claim, or omitting to do what is needed to speed up the claim settlement process. Hence the costs increases are the result [ REDACTED ].

- We think the CC has missed this issue out from its analysis in this Appendix. In other words, where the CC suggests Credit Hire services are over-charged, the allegation needs to be tested for the **faults or defaults of at-fault insurers** in causing the costs to escalate by their conduct, (or acts of omission i.e. slowness to make decisions). So far the CC gives them assumed credit, [ REDACTED ].
- The necessary work, as discussed above, appears to be missing [ REDACTED ].

**We will address this point later, where we discuss at-fault insurers 'avoidable costs'. [ REDACTED ]. We address this issue in response to the**

CC's allegation of frictional and duplicated costs, which we refute as a problem by CHCs.

32. Table 6 presents three different rates:

(a) the GTA daily rate;

(b) an overall credit hire daily rate, calculated dividing the total revenues for seven large CHCs in 2012 by the number of hire days; this rate includes both GTA and non-GTA claims; and

(c) the average direct hire daily rate paid by three large insurers.<sup>12</sup>

The table compares the two credit hire rates with the direct hire rate.

Footnote 12 - In a previously published working paper, we also presented the direct hire daily rates provided by two hire companies. We do not show them here because the sample of hire companies appears to be **small and non representative**.

[see next page for table 6]

TABLE 6 Comparison of credit hire daily rates and Insurer direct hire daily rates

GTA car category	Example car	GTA credit hire daily rate £	Overall credit hire daily rate £	Average Insurer direct hire daily rate £*	Multiple of GTA rate over average Insurer direct hire rate	Multiple of overall credit hire rate over average Insurer direct hire rate
<b>Standard</b>						
S1	Peugeot 107	30.28	39.79	14.18	2.1x	2.8x
S2	Ford Fiesta	34.33	43.09	14.95	2.3x	2.9x
S3	Ford Focus 1.4	36.62	46.63	17.83	2.1x	2.6x
S4	Ford Focus 1.6	39.26	48.49	19.55	2.0x	2.5x
S5	Ford Mondeo 1.8	41.54	50.81	21.93	1.9x	2.3x
S6	Ford Mondeo 2.0	44.25	54.76	23.52	1.9x	2.3x
S7	Peugeot 607	62.06	70.79	28.09	2.2x	2.5x
Weighted average					2.1x	2.6x
<b>MPV</b>						
M	Vauxhall Meriva	48.38	59.30	27.99	1.7x	2.1x
M1	Ford Focus C-Max 1.4/1.6	55.91	64.43	30.63	1.8x	2.1x
M2	Ford Focus C-Max 2.0	63.75	74.37	33.70	1.9x	2.2x
M3	Ford Galaxy	74.94	84.27	31.53	2.4x	2.7x
M4	Mercedes Benz Viano 2.0	95.07	101.29	44.90	2.1x	2.3x
M5	Mercedes Benz Viano 2.2	142.59	148.06	49.33	2.9x	3.0x
M6	Mercedes Benz Viano 3.5	180.62	162.92	55.87	3.2x	2.9x
Weighted average					1.9x	2.2x
<b>4x4</b>						
F1	Toyota RAV4 (2.0)	93.94	106.21	50.07	1.9x	2.1x
F2	Toyota RAV4 (2.2)	100.66	110.26	51.12	2.0x	2.2x
F3	BMW X3 (2.0)	108.49	130.09	52.30	2.1x	2.5x
F4	BMW X3 (2.5)	133.10	149.14	63.32	2.1x	2.4x
F5	BMW X5 (3.0)	178.93	196.22	67.72	2.6x	2.9x
F6	BMW X5 (xdrive40d)	201.31	216.85	77.80	2.6x	2.8x
F7	BMW X5 (V8 4.4)	234.86	254.22	96.51	2.4x	2.6x
F8	BMW X5 (4.8 Sport 5 door auto)	251.64	265.22	89.37	2.8x	3.0x
F9	Porsche Cayenne Turbo (4.5)	307.56	310.01	141.49	2.2x	2.2x
Weighted average					2.2x	2.4x
<b>Prestige</b>						
P1	BMW 116 (1.6)	78.28	86.71	37.37	2.1x	2.3x
P2	BMW 118 (1.8)	87.24	94.82	40.39	2.2x	2.3x
P3	BMW 120 (2.0)	92.82	105.05	47.93	1.9x	2.2x
P4	BMW 320 (2.0)	112.95	126.19	54.32	2.1x	2.3x
P5	BMW 520 (2.0)	140.92	151.76	58.58	2.4x	2.6x
P6	BMW 525 (2.5)	167.76	174.79	70.28	2.4x	2.5x
P7	BMW 530 (3.0)	195.72	208.03	79.38	2.5x	2.6x
P8	BMW 730 (3.0)	223.66	235.04	104.62	2.1x	2.2x
P9	BMW 735/740 (3.5/4.0)	257.23	290.84	109.74	2.3x	2.7x
P10	BMW 750 (5.0)	316.51	249.53	118.78	2.7x	2.1x
P11	Bentley Continental	444.55	495.82	204.19	2.2x	2.4x
P12	Bentley Flying Spur	665.44	590.92	305.25	2.2x	1.9x
P13	Rolls Royce Phantom	964.88	1,050.81	N/A	N/A	N/A
Weighted average					2.2x	2.4x
<b>Sports</b>						
SP1	Mini Cooper (1.6)	75.36	88.87	33.76	2.2x	2.6x
SP2	Mini Cooper S (1.6)	88.08	97.25	39.97	2.2x	2.4x
SP3	Mini Cooper S (1.6) Cabriolet	98.41	107.50	58.80	1.7x	1.8x
SP4	Audi TT Coupe 1.8T	120.79	128.61	58.05	2.1x	2.2x
SP5	Audi TT Roadster 1.8T	131.97	149.60	60.61	2.2x	2.5x
SP6	Audi TT Roadster 1.8T Quattro	184.54	189.84	77.72	2.4x	2.4x
SP7	Audi TT Roadster 3.2T Quattro	206.91	216.82	93.41	2.2x	2.3x
SP8	BMW 325 Cabriolet	229.27	254.64	87.84	2.6x	2.9x
SP9	BMW 630	251.64	275.56	107.95	2.3x	2.6x
SP10	BMW M5	287.98	320.53	130.54	2.2x	2.5x
SP11	Aston Martin Vantage (6.0)	346.70	439.70	129.69	2.7x	3.4x
SP12	Aston Martin DB7 coupe	455.75	488.81	209.26	2.2x	2.3x
SP13	Aston Martin DBS Coupe V12 6L	665.44	728.75	305.09	2.2x	2.4x
Weighted average					2.2x	2.4x
Overall weighted av					2.1x	2.5x

Source: Insurers and CMCs/CHCS.

\*The direct hire data may include at-fault claims.

Notes: 1. The weighted averages are based on revenues obtained by CHCs for each car category.

2. N/A = not available.

*33. The average daily rates paid by insurers for credit hire are usually higher than the GTA rates. Our estimates are based on CHCs' revenues and they therefore take into account discounts offered to insurers, penalties paid by the insurers under the GTA when claims are not settled within 30 days, and the higher rates charged for hires handled outside the GTA.*

**We have significant problems with the work disclosed in para 32, 33, footnote 12 and Table 6, as shown above.**

The CC relies on the data within Table 6 to help identify the consumer detriment under AEC1. Its conclusions state that an estimated £95 million<sup>3</sup> per annum (after through-flow of referral fees) is associated with credit hire. Another way of looking at this is based on 25.7 million policyholders it equates to £3.69 per policy. We say this is a miniscule cost or penalty, even if we accept this number, for **the potential gain:**

- (a) of having a free CHC sector** to service the non-fault drivers' claims to recovery of losses (including immediate right to drive a replacement car), and
- (b) without loss of NCB**, or
- (c) without need to pay an excess** under their policy

The CC can not ignore these very significant consumer gains, which any of the 25.7 million drivers could enjoy at their time of need. We think any rational person knowing about this trade-off would say 'do nothing'. That is our starting point in this debate.

The basis of the CC's calculations in Table 6 implies comparing the overall credit hire daily rate in column 2 with the average insurer direct hire daily rate in column 3. We have already, in great detail as noted above, provided logical reasons why in the first instance this should not even be considered, i.e. they are clearly different services serving different customer segments within a larger market, and any attempt at a comparison should reflect this.

We are however left with Table 6 (and the CC's follow up text) as it stands, and within this section we will detail why we believe the data to be wholly inaccurate and flawed and should not be used as any basis to make informed decisions on the relative merits of Credit Hire v Direct Hire. Moreover, it can not be used to compute an adverse effect detriment, and it has no value in the decisions to consider possible remedies as outlined in the CC's Notice of Remedies.

---

<sup>3</sup> Table 5 in App 6.7 for credit hire shows £193m, less Table 9 in App 6.7 for referral fees of £98m, equals £95 million.

Certainly, if remedies are implemented, which lead to the desolation of the credit hire sector, then we believe the CC's work here will not support such an [ ✂ ] decision. We will address the issues in three ways:

1. Examination of the "Overall credit hire daily rate" used in Table 6 – i.e. overstating figures
2. Examination of the "Average insurer daily direct hire rate" – i.e. understating figures
3. Identifying errors in comparing the two sets of the above data

### **Overall credit hire daily rate - i.e. overstating figures**

In short the figures in this column 2 seem over-inflated. The CC states in paragraph 33 that the average daily rate paid by insurers for credit hires are usually higher than the GTA rates, hence the CC has taken into account adjustments for penalties, discounts and cases settled outside the GTA etc. From examining the data in Table 6, the CC suggests therefore that for example in the case of an S1 vehicle the actual rate received by a CHC is 31% higher than the GTA rate and in the case of a S6 23% higher. This just can not be the case; it defies logic and any data that Kindertons has submitted to the CC to date. We request the CC to check this point immediately and get back to us

The initial impact of this data is that it is used as a comparator for Credit Hire to the direct hire daily rate which produces a factor of 2.5 x DH. This then flows through to the calculation of alleged detriment thus producing an artificially high total.

In the following table (**Table 1A**) we have tried to illustrate our logical thinking on this point. If indeed the CC's assumptions were correct and the difference in the daily [average] rate CHCs recover was actually that significant, how would it flow through a sample of claims to enable us to have comfort with this assumption.

We have therefore provided a working sample of claims, in this instance 1000 and for simple reasons used the figure of £1000 per claim (based on GTA rates), as the amount recoverable. We have then used some of the other CC's assumptions as follows:

1. Identified the number of claims settled within the GTA
2. Identified the average discount [or bad debt] per claim
3. Applied late payment penalties based on debtor days

The CC will see that this illustration (see next page) then produces an expected revenue return from those claims settled within the GTA. However, the CC's data has assumed an "overall credit hire rate" above the GTA rate, as the basis for CHC revenue. Hence we noted data shown on Table 6 for standard vehicles as reproduced in the mini table below, and arrived at this CC average uplift of **24%**. This CC uplift indicates the sample of 1000 claims would be expected to generate £1.24 million, rather than £1m (with no uplift). (**NOTE:** The CC must agree that its 'overall credit hire daily rates' was its assumption for CHCs revenue, so the uplift is built into its workings, and we are right to test this assumption for accuracy).

**\*Calculation for overall credit hire uplift (based on data in CC's Table 6)**

GTA car category	GTA credit hire daily rate	Overall credit hire daily rate	Uplift over GTA Factor
<b>Standard</b>			
<b>S1</b>	£30.28	£39.79	1.31
<b>S2</b>	£34.33	£43.09	1.26
<b>S3</b>	£36.62	£46.63	1.27
<b>S4</b>	£39.26	£48.49	1.24
<b>S5</b>	£41.54	£50.81	1.22
<b>S6</b>	£44.25	£54.76	1.24
<b>S7</b>	£62.06	£70.79	1.14
<b>Unweighted Average</b>			<b>1.24</b>

Using this information, we were able to compute results, based on the assumption, as shown in Table 1A on page 34 below. On page 35, we explain these results and draw conclusions that the CC's daily rate uplift assumption of 24% is wrong. This in turn proves the CC's data as shown in Table 6 is also materially wrong i.e. too high for its comparison to [imputed] daily direct hire rates.

**Table 1 A**

Workings to demonstrate that the CC's data in Table 6 for Credit Hire daily rates appear too high  
- NB we use an uplift of 24% over GTA column 1 (based on CC assumption in Table 6)  
- the results below show data errors and omission have crept into the CC's work

NOTE: In the following, we are using CC language which we do not necessarily accept e.g. bad debts, which we say are mostly discounts.

**Assumptions**

No of Claims	1000	
Average Claim Amt	£1,000	
% Settled in GTA	[ ✂ ]	CC data
% Settled in 30 days	[ ✂ ]	[ ✂ ]
% Settled 30-60 days	[ ✂ ]	
% Settled 60-90 days	[ ✂ ]	
30 day LPP - penalty interest	[ ✂ ]	
60 day LPP	[ ✂ ]	
Avg Discount/BadDebt in GTA	[ ✂ ]	CC data
Avg Discount/BadDebt in GTA	[ ✂ ]	CC data
Avg uplift overall credit hire v GTA	24%	

**CC's suggested CHC Claims** 1000

**Expected recovery (Overall CH rate)** £1,240,000

**Claims settled under GTA**

	Claim Nos	£k Total Recovery Gross	£k Negotiated Discount	£k Penalty Interest	£k Net amount	£ Average recovery
<b>GTA Settlement</b>						
Claims settled in 30 days	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
Claims settled in 30-60 days	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
Claims settled in 60-90 days	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
Totals	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]

CC's suggested recovery (based on 24% uplift) for 1000 claims 1240  
Less claims in GTA recovery (as calculated in table above) [ ✂ ]  
Balance that non GTA claims (are expected to recover) [ ✂ ]

No of Claims Non GTA [ ✂ ] → we assume these generate average as → [ ✂ ]  
1000

NOTE: The above table shows how discounts effect the overall amount recovered.

**Continued overleaf for explanations and conclusions ...**



Table 1A continued ... **Explanations of data and conclusions in Table 1A**

Now that we know what revenue to expect from those claims settled within the GTA we then need to calculate the value of the remaining 230 outside the GTA.

By using the data in Table 6 we can estimate this. The table above shows the average uplift of overall credit hire daily rate compared to GTA rate which the CC relies upon --- ie within the standard set of vehicle data which would account for a significant majority of hires, **we see the unweighted average is 24%.**

Without sight of the source data (concealed to date by the CC) in terms of numbers of hires in each group we can not identify the weighted average.

However the CC data would suggest that the original GTA value of 1000 claims at £1000 per invoice should equate into £1.24 million for CHC's in revenue.

We have shown in reality we would expect to recover £[X] from the claims within the GTA (under our normal recovery profile)

Therefore the CC's workings suggest that we would expect to generate the remaining [X] from claims settled outside the GTA (230 in this example)

So, from the remaining 230 claims that would equate to an average recovered invoice in the region of [X], when settled outside GTA. This represents [X]% **increase** on GTA rate!

**This 24% uplift does not make sense and highlights the major error within the rates for overall credit hire the CC have used.**

**CONCLUSION** - CC has overstated overall credit hire daily rate for the cars in the table. This leads to inflation of the factor comparing daily hire rates to DH rates.

The table shows that the CHC would generate circa £[X] from the 770 GTA cases which would leave £[X] to be generated from the 230 non-GTA cases. This would equate to an average of £[X] per each invoice compared to the original £1,000 GTA invoice, an increase of [X]%! How can this be?

It does not make any sense with our actual data in real time, and clearly undermines the accuracy of any conclusions made as a result. This is [X] that the data used in Table 6 is tainted too much with errors, and as such produces results harmful to CHCs, without any basis in fact or reality we can recognise.

To further test this calculation we used a **much lower uplift** percentage of overall credit hire to GTA rate of **10%** (as shown Table 1B below). This still resulted in the non-GTA claims having to generate an average of £[X] per case or circa [X]% increase on the GTA rate, compared with the target GTA recovery of £1,000. Again this result was abnormally high.

--- see Table 1B below on next page ...



**Table 1B-Alternative version (to test sensitivity of abnormal result in Table 1A)**

Workings to demonstrate that the CC's data in Table 6 for Credit Hire daily rates appear too high

- In this example, we have used uplift of 10% over GTA column 1 (which is less than the 24% actually used by the CC in Table 1)

- this example still shows data errors and omission have crept into the CC's work

**Assumptions**

No of Claims	1000	
Average Claim Amt	£1,000	
% Settled in GTA	[X]	CC data
% Settled in 30 days	[X]	[X]
% Settled 30-60 days	[X]	
% Settled 60-90 days	[X]	
30 day LPP - penalty interest	[X]	
60 day LPP	[X]	
Avg Discount/BadDebt in GTA	[X]	
Avg Discount/BadDebt in GTA	[X]	
Avg uplift overall credit hire v GTA	10%	

**CC's suggested CHC Claims** 1000

**Expected recovery (Overall CH rate)** £1,100,000

**Claims under GTA**

	Claim	£k Total Recov Gross	£k Negoti -ated Discount	£k Penalty Interest	Net Amount	Average recovery
<b>GTA Settlement</b>	<b>No</b>	<b>Amt</b>				
Claims settled in 30 days	[X]	[X]	[X]	[X]	[X]	[X]
Claims settled in 30-60 days	[X]	[X]	[X]	[X]	[X]	[X]
Claims settled in 60-90 days	[X]	[X]	[X]	[X]	[X]	[X]
Totals	[X]	[X]	[X]	[X]	[X]	[X]

CC's suggested recovery (based on 10% uplift) for 1000 claims 1100

Less claims in GTA recovery (as calculated in table above) [X]

Balance that non GTA claims (are expected to recover) [X]

No of Claims Non GTA [X] → we assume these generate average as -> [X]  
1000

NOTE: The above table shows how discounts effect the overall amount recovered.

Continued below for explanations and conclusions from above Table 1B ....

**Notes and explanations on Table 1B**

Now that we know what revenue to expect from those claims settled within the GTA, we then need to calculate the value of the remaining 230 outside the GTA.

For this version we have used a reduced uplift of **10%** to illustrate that the CC's base figures are still wholly inaccurate.

Therefore this would suggest that the original GTA value of 1000 claims at £1000 per invoice should equate into £1.1 million for CHCs in revenue.

We have shown in reality that we would expect to recover £[REDACTED] from the claims within the GTA (under our normal recovery profile)

Therefore the CC's workings suggest that we would expect to generate the remaining [REDACTED] from claims settled outside the GTA

So, from the remaining 230 claims that would equate to an average recovered invoice in the region of [REDACTED], when settled outside GTA

This represents [REDACTED]% increase on GTA rate! This too is an abnormal impossible result.

Given the above analytical exercise, we say clearly that **something has gone wrong** with the formulation of the CC's data **as presented, and relied upon in Table 6**. And this reinforces our request for access to a data room to allow us to properly interrogate and understand where and how this vital information has been obtained, and what errors, [REDACTED] have crept into this important work.

- But we also say, [REDACTED] tested the data like we have done in Tables 1A and 1B above, to reassure the CC about producing its Table 6 for public display in December 2013 (2 months ago), and **publishing major decisions**, based on this Table's results. [REDACTED].

When considering the use of an average daily credit hire rate as the comparator, it raises further questions as to whether this is even the correct method. This rate will include late payment penalties paid by the at-fault insurer because the insurer did not deal properly with the claim. Surely therefore the CHC's should not be including penalties for insurer failure in its daily rate benchmark for Credit Hire. In other words, as the CHC has **done nothing wrong**, has the CC made any allowances for this in its thinking or just accepted that if late payment penalties are incurred, it is simply more income for the CHC involved? This does not seem fair or justified in a robust comparative analysis.

### Average insurer direct hire daily rate – ie understating figures!

This data in column 3 (of Table 6) in effect is the benchmark that the CC relies upon when comparing the daily cost of credit hire. It forms the backbone of this appendix and so the CC should have complete confidence in its **integrity and accuracy**. For such reliance to be made on one set of data it should be robust enough to stand up to open interrogation and query if it is to be used with such significant effect.

When considering our previous comments, we believe the data fails this test on numerous levels. We are led to believe that rates indicated are reflective of the insurance industry and therefore the CC suggests they should be taken as a reliable comparator to the CC's credit hire daily rates. We would however like the CC to consider the following points:

1. The direct hire rates detailed are based on **just three** insurers. These insurers are not named so we have no idea of their size in relation to the entire industry. How can a sample of three insurers be the basis of a benchmark which could lead to wide scale implications to the credit hire sector, as well as the entire 25 million driving population of the UK? For example, if these insurers are the largest has the CC recognised that they may benefit for volume related discounts that other smaller insurers would not receive? The buying power of the larger insurers should not be used to influence a set of data as important as this. Has the CC done any work regarding this possibility?
2. When the CC accepted the data from the three [unnamed] insurers did it have sight of the contracts that the rates are based upon? We expect that it will be the case that the provision of such rates form part of a more comprehensive commercial agreement involving the referral of normal credit hire claims. Without this additional flow of more profitable work we do not see how these rates can be justified or more importantly maintained. We have stated previously that without credit hire, **direct hire rates would go up** [immediately] as a result. Has the CC considered this, or done any sensitivity analysis on its chosen data?
3. [ REDACTED ].
4. It is not clear from the Table 6 narrative, who insures the vehicle, is it the direct hire provider or the insurer, if indeed it is the insurer then where is the allocation of a daily cost to this?

5. There is no indication of when these rates are effective from? In fact when examining the CC's data in table 6 it is only the GTA rate in column A we can have any confidence in as being accurate.
6. There needs to be very clear narrative on how the individual items in the direct hire column were derived, and tested, by each car category, and over time. We see no narrative, so we assume nothing was done, other than to pick numbers out of list(s) produced by unknown parties. We want to know more about this, especially given our real concern that the direct hire figures are too low. This request is entirely separate to any request for access to the data room.
7. We also think the CC (if not done already) needs to get the parties providing the data to have auditors interrogate the data sources, and produce a report on this, for publication whilst the CC continues in parallel, in the current remedies stage. We need to see this report and its conclusions as quickly as possible for obvious reasons.
8. We have concerns that certain vehicles have been placed in the wrong group bandings, what work has the CC done to ensure that this is not the case?
9. We are not sure whether the CC made upward adjustments for average credit hire durations being longer than direct hire; or an uplift for hidden cost that we incur (that are included in the insurers operations eg capture teams, claims management, etc, that are excluded from the daily direct hire charges used.) All these hidden subsidy costs need to be brought into the comparison analysis for obvious reasons.

Once again this takes us back to having access to the data room, and answers to the above questions, so that we can fully understand how these rates have been arrived at. In our view, the above are formidable problems, which the CC says it has resolved.

## Comparison of the two sets of rates.

There are considerable problems in comparing the two sets of rates in the way the CC has done to date. We will put to one side the overriding principle that they should not be compared due to being different services. The following illustrate our other concerns:

1. The overall daily [average] credit hire rate which the CC states the CHC's recover includes a whole range of additional items to the rate listed under direct hire. The direct hire rate is simply a daily rate for a standard vehicle within that grouping. The overall daily credit hire rate may include any of the following:
  - a. Daily additional cost for provision of a automatic vehicle;
  - b. Daily additional cost for adapted mobility vehicle e.g. hand controls;
  - c. Daily additional cost for provision of a estate vehicle;
  - d. Daily additional cost for provision of a vehicle with a tow-bar;
  - e. Daily additional cost for provision of a vehicle with a baby-seat (if damaged in the accident);
  - f. Daily additional cost for insurance due to the driver having an adverse driving record and thus at perceived greater risk of being involved in a further incident
2. There is no mention within the table as to how non-standard risk drivers are dealt with and the impact on the daily rate. As we have detailed previously we carry out a very small percentage of hires on a direct basis (3% per cent) but some of these are for non-standard drivers. It would appear that the normal direct hire supplier will not accept these claims hence our involvement. [ REDACTED ]. How has the CC taken into account these cases and why are they not reflected within the daily rate? Further, how would these excluded drivers have protections if the situation was direct hire alone?
3. There are also a number of other considerations that should be taken into account when examining the difference in rates. In respect of payment times, direct hire providers would expect to be paid promptly without delay, when compared to credit hire this is clearly not the case. Where is there any recognition of this, and how is this factor built into the table?
4. Finally there is no mention of collection and delivery charges, within credit hire under the GTA they do not exist and yet the CHC will deliver the hire vehicle to the

destination of the claimant's convenience. Within the direct hire rate there are two points, and therefore, is there a charge which the insurer has to pay?  
[ REDACTED ].

As we said, the narrative surrounding the derivation of the CC's direct hire daily rate data is almost **invisible** in the Provisional Findings and the relevant Appendices. This is something missing which we say [ REDACTED ]. To be fair, there needs to be total transparency on this vital subject (done in secret so far), or this area of work needs to be abandoned as unreliable. We believe that the CC needs to rely on credible evidence, rather than hearsay.

We hope that the CC is able to examine our arguments thoroughly and appreciates the basis of our concerns (which we believe are reasonable). Within paragraph 35 as a result of the data within Table 6, the CC concludes that daily average credit hire rates are 2.5 times higher than direct hire rates and thus forms its economic analysis. In conclusion to this section this assumption is wrong, based on:

- the overall credit hire daily rate is clearly incorrect and over-inflated;
- the average direct hire rates shown can not be relied on as industry benchmark;
- when comparing the two sets of rates it is like comparing "apples and pears"; there exists additional costs within the overall credit hire rates which nowhere have been accounted for within direct hire rates (as inferred from the CC's [ ✂ ] narrative).

We can not see how the CC can rely on Table 6 moving forward. We of course, would be interested to know how the CC **proposes to adjust its work, to take account of our objections as noted above on the quality and robustness of its hard data evidence**. At present, we say that evidence is [ ✂ ] not worthy of going into Table 6, as currently presented.

The CC will also note the lengths we have gone to, in order to understand this issue over some 20 pages. In comparison, there is barely any narrative on this important subject in the CC's Appendix and follow-on Section 6. That informs us that the work was done [ ✂ ] with little rigour. If we are wrong in this assumption, we assume the CC will [ ✂ ] clarify the thinking [ ✂ ] on this work.

*34. Both the average direct hire and the average credit hire rates over multiple car categories are computed using as weights the relevant numbers of credit hire days in our sample of CHCs. This implies that the comparison between credit and direct hire rates is based on the assumption that claimants are provided in both cases with the*

*same cars for the same period length. It is therefore a like-for-like comparison.*

*35. Table 6 shows that, on average, credit hire rates are 2.5 times higher than direct hire rates. Dividing the total revenues for the CHCs in our sample by the total number of credit hire claims managed by them, we estimated the average credit hire bill to be approximately £1,085.13. Since credit hire rates are 2.5 times higher than direct hire rates, under direct hire the same services could be provided for about £445. We therefore estimate average cost difference due to the separation at approximately £640.*

Within paragraph 35 as a result of the data within table 6 the CC concludes that credit hire rates are 2.5 times higher than direct rates and thus forms its economic analysis, our objections and reasons why this narrative should be rejected is given above in great detail.

Fundamentally the data is incorrect which results in any factor calculation also being incorrect. If any comparison between the two rates were to be made we have clearly outlined that the factor should be considerably lower which would then flow through to the difference in cost.

It is of course worth highlighting at this stage that the original alleged £3.69 per policy detriment will reduce significantly based on the unreliable and inaccurate nature of the data within Table 6. By way of comparison that is less than an underground single fare ticket to travel in say, London. This simple example shows the minuscule nature of the alleged competition problem, which we refute.

Whatever figure we are left with after table 6 is corrected will give us the difference in providing direct hire and credit hire. This is where we come full circle and need to understand that we can not compare the two on a like for like basis. We can accept in principle the costs of two claims side-by-side one through direct hire and one credit hire but the dynamics of the two are poles apart. The difference is simply the difference in service and the cost incurred by the CHC to provide it. A further key point to consider is that we are not aware of any standalone direct hire provider, it can not exist on its own model and would not be profitable. The CC acknowledges that CHC's are not making excessive profits so in our view any argument to compare is flawed. The fact is that direct hire can not possibly fulfil the demand for credit hire, it serves insurers in a suggested 25% of claims, and there is a reason why it is not capable of dealing with a greater number.

As a crosscheck to the arbitrary nature of the above, we ask the CC to consider how it would

have dealt with the situation in a regulatory environment. Specifically, if the CC was setting regulated charges, it would ensure that the regulated revenues cover the correct cost of the business and enables the business to earn a normal return on its capital. As the CC has recognised that we do not make excess profits in our sector, it follows that our charges must be at the correct competitive level.

### **Further representations to the CC decision-makers:**

We see that the CC carries this [✂] thinking about these multiples directly into Section 6, at para 6.14(c), and footnote 14 therein. We are separately objecting in our Response to Section 6 about this. We however state here, for the record that all our objections regarding the work in Section 6 from paragraphs 6.12 to 6.28 (and any other relevant paragraphs) [ ✂ ] as noted in the numerous pages above. [ REDACTED ].

At the forthcoming round table, the CC may wish to set aside some time to inform us [ ✂ ] of what it intends to do [ REDACTED ].

### ***Analysis of the cost of credit hire***

*36. In seeking to analyse the higher daily hire rate of credit hire compared with direct hire, we considered the underlying costs borne by replacement car providers under the two models. In this section, we discuss the following costs, which contribute to and/or reflect the cost difference estimated in the previous section:*

*(a) referral fees; bad debt provision*

*(b) credit risk; and*

*(c) administration costs (both duplicated costs and frictional costs).*

This text leads to wrong conclusions. We say that the (a) (b) and (c) cost categories are **essential costs to enable us to provide our service to perhaps 300K non-fault drivers a year**. They will be poorly or worse treated if our sector did not exist. This is too large a group of customers who receive our service at no charge, and at point of need, for the CC to ignore. We do not think the interests of these customers has been identified and understood in the Provisional Finding e.g. from survey evidence. So forcing CHCs to abandon these cost categories (as criticised above) can jeopardise our ability to operate as



viable businesses, and still serve a wide client/consumer base over the UK.

Without these essential costs, our businesses have no future, and it is incumbent for the CC's analysis to take account of its proposals by a proper **impact assessment** on the CHC business sector. [ REDACTED ], which will leave the impecunious population with no easy way to recover their non-fault losses, and/or perhaps being forced to pay excess charges where they have to make claims under their policies, and/or face higher future premiums from loss of NCDs. These are negative impacts that the CC can not ignore.

We are not clear whether the items (a) to (c) add up to the £640 per claim (£1085-£445) as derived in para 35. The CC provides no analysis of how this alleged £640 relates to the real financial data of CHCs and is simply an estimated figure derived from what we now believe to be unreliable data within Table 6. **Clearly this needs considerable more work.**

As an example, if we at Kindertons carried out [ ✂ ] hires this year. Multiplying this by £640 gives around £[✂] m potential loss of revenue under the CC's thinking per annum. In simple terms this would [ ✂ ].

Under category 36(c), we object to the idea that our administration costs are duplicated costs or frictional costs. Our costs are essential to doing the basic business, we provide (to claimants who are not captured by at-fault insurers). Our service to claimants is completely distinct from that of at-fault insurers. There is a tension between the rights of claimants to recover their losses, and the interest of at-fault insurers not to accept their claims as evidenced prior to the emergence of CHC's. The CC can not assume the at-fault insurers will do an equal job to us - it is simply not true. It is in resolving this tension (i.e. conflicts of interest between 2 opposing sides) that our sector arose as **mediators and facilitators** to give claimants a fair and just solution with the insurers.

The importance of our role, in turn led to the GTA framework. This evolution is totally missed from the Appendix. Indeed this warrants an entire sub-section of the CC's Appendix A6(1) (*around the GTA section currently shown in para 5*) to show the CC understands why we exist as a sector serving, inter alia, all the large insurers and brokers.

- Hence the fairness and justness (for claimants) from our involvement will disappear if we can not carry out our function to serve perhaps around 300K non fault claimants a year. Without CHCs, who then will ensure that insurers or their agents do [ ✂ ]? The CC narrative misses this point, which more than justifies categories (a) to (c) to

continue as essential costs.

We ask the CC to consider our pre-assessment work, where we decide at our expense whether a claimant's claim is actually valid. Should we not do this? Out of say [ X ] referrals a month, some X% will be abandoned because we don't think the claim is satisfactory. It costs around £X to do this work per claim, and it saves the insurers costs via disputes that may incur complaints to the Ombudsman. Our own costs in this activity can be around £1m a year – over our sector, this can multiply to several £millions.

- We also think insurers have to pay a fee to the Ombudsman for each claim referred as a complaint, and that too can be significant when there are many complaints. Where have these costs savings to insurers from our activities been taken into account? How are we supposed to absorb such costs without income? When these questions are answered, the CC must [ REDACTED ].

The same thinking deals with referral fees, which we say are **customer acquisition costs** under category (a). We have provided arguments why these costs are essential in our Remedies Response, and such text should be considered here – see pages 54 to 57.

Regarding category 36(b) i.e. credit risks, we consider this a real issue that the CC does not seem to appreciate. CHC's are dependant on insurers settling claims in an acceptable timeframe, and if not done, this issue can have a detrimental impact on their business. If the CHC is also operating a credit repair scheme then this is even more important as the repair element of the claim is often discharged prior to recovery from the at-fault insurer.

*37. Frictional costs are also borne by at-fault insurers when dealing with replacement car providers. These costs do not contribute to the cost difference we have estimated, but are in effect an additional source of cost to at-fault insurers.*

The CC's language again [ X ] insurers. Here, the CC says the costs of insurers dealing with at-fault claimants are acceptable but our costs, in the public interest (analogous to legal aid costs) are not. The thinking is [ X ]. It takes no account of the consumer who is not-at-fault and if treated badly (and we expect this will happen without CHCs and CMCs), will suffer considerable harm. The CC's logic is wrong, [ X ].

We say that any costs incurred by at-fault insurers, e.g. because their conduct has extended the duration of the claim, are their own unnecessary or **avoidable costs**. The CC needs to identify these costs across all insurers, [ REDACTED ].

- In effect, it seems that the insurers' [ REDACTED ]. This is a complete opposite line of thinking to where the CC is stating its present position. In other words, blame should rest with the at-fault insurers who don't properly resolve/handle claims (in say 30 days), rather than CHCs who act as mediators/ facilitators for the non-fault claimant. This is a fundamental point of difference between us and the CC.

So to summarise, we say costs should be looked at, in terms of who they should be attributable to. So far, the CC has made the wrong and arbitrary assumption by blaming CHCs. In our view, we exist as an ***independent facilitator*** of non-fault claims (at no charge to claimants) because the insurers have a track record of not doing this job properly in the public interests. The courts support us, where we need to take enforcement action, e.g. when the GTA is ignored. **All this needs to get into the updated Provisional Findings.**

So, we reject the CC's thinking as wrong, illogical, and [ ✂ ]. We reinforce our argument by noting that the Government funds both the cost of prosecution as well as the legal aid defence costs (when needed). The government does not say they are duplicate, or frictional. They are expenditures for 2 opposing sides, in the interest of justice. We say similarly that our costs and insurers costs are part of the system of 'justly' settling claims, where 1 side does not want to pay (i.e. the insurers) and the victim wants recovery of their legitimate loss, including the costs of obtaining an adequate replacement car (when needed).

- Our independent mediation service, under the GTA framework does this at no costs to claimants, who otherwise would be nursing severe losses that the CC has [ REDACTED ].

We add that if we, CHCs did not also filter out many potentially fraudulent claims, the costs we incur at no charge to the insurers, would have to be incurred by them, and possibly some of these claims would be paid out in false claims. How has the CC picked-up and quantified these saving to insurers.

## **Referral fees**

*38. A CMC/CHC usually pays a referral fee to the referring non-fault insurer or broker (or other party), in order to secure the provision of credit hire services to the non-fault driver.*

We object to the use of the word ‘referral fee’ in the current context – it should also have the designation ‘customer acquisition costs’. Our reason is the CC’s use of this word leads to prejudice against our role, in serving the public as independent mediators in their time of need. We know no better way to link customers to us, other than by referral fees. The payments were/are set by market forces, and lead to a **continuing flow of business**, to enable us to achieve economies of scale from a regular workload. None of this is bad. The CC can refer to the text we wrote in response to the Remedies Notice on banning these fees, and include such text here, in para 38. Please see pages 54 to 58 of our Response to the Remedies.

*39. Nine of the ten largest insurers told us that they received fees for credit hire referrals,<sup>14</sup> of which [%].<sup>15</sup>*

This is not correct. All ten insurers received fees from Credit Hire referral or Credit Repairs referrals. CISGL may refer claims to its own claims company but the end result will be a credit hire referral and therefore receiving income to offset costs. We would request the excised text/data is published. We do not know why this is confidential?

**Query:** We note footnote 15 is excised, and we would like some idea of what is being concealed, and why it is viewed as confidential? That text should appear in this short paragraph.

*40. Table 7 shows the average referral fee for a credit hire replacement car paid by each of the nine CMCs/CHCs in our sample and received by each of the ten motor insurers and ten brokers in our sample. These averages are between £[%] and £[%].*

- continued below ...

TABLE 7 Credit hire referral fees received/paid by motor insurers/brokers/CMCs/CHCs

Motor insurer/broker/CMC/CHC	Average referral fee paid/received per referral £
<b>Motor Insurers</b>	
Admiral	[<]
Ageas Insurance	[<]
Aviva	[<]
AXA UK	[<]
AXA Northern Ireland*	[<]
CISGIL	[<]
DLG	[<]
Esure	[<]
LV	[<]
RSA	[<]
Zurich	[<]
Unweighted average	249–358
<b>CMCs/CHCs</b>	
Accident Exchange	[<]
ACM	[<]
AI Claims Solutions	[<]
ClaimFast	[<]
Crash Services	[<]
Enterprise	[<]
Helphire	[<]
Kindertons	[<]
WNS Assistance	[<]
Unweighted average	247–310
<b>Brokers</b>	
AA	[<]
Ageas Insurance 50†	[<]
BISL‡	[<]
Castle Cover†	[<]
Endsleigh	[<]
Express Insurance†	[<]
Kwik Fit Insurance†	[<]
Swinton	[<]
The Green Insurance Company†	[<]
UKAIS†	[<]
Unweighted average	248–277
Overall unweighted average	248–315

Source: Motor Insurers, CMCs/CHCs and brokers.

\*AXA Northern Ireland [<].

†Ageas Insurance had six broking companies at the date of responding to us: Ageas Insurance 50 (trading as RIAS), UKAIS, Castle Cover, Express Insurance Services, Kwik Fit Insurance Services and The Green Insurance Company.

‡BISL did not provide an indication of the average referral fee it receives from a referring party, but it told us that its credit hire referral fee income was £[>] and £[>].

41. The significant variation in the estimates of the referral fees paid by CMCs/CHCs and received by motor insurers and brokers provided in Table 7 reflects:

(a) the different forms in which referral fees can be structured;<sup>16</sup>

(b) the importance of the referring party to the CMC/CHC in securing credit hire revenue (motor insurers typically handle more non-fault claims than brokers and therefore have more bargaining power against CMCs/CHCs); and

(c) the competitive pressure between CMCs/CHCs in securing referrals from all referring parties.<sup>17</sup>

We believe the data shows a **viable** pro-competition and pro-consumer market process is working well. The CC misses the point that without these acquisition costs, the CHCs will need new (and more expensive) approaches to get to claimants at their time of need, when they are most vulnerable

*[16] Referral fees can take several forms, like (a) a flat fee per hire, (b) a variable fee depending on hire duration and on the class of the replacement car, or (c) a fee based on a percentage of the credit hire invoice recovered from the at-fault insurer.*

*[17] Despite the considerable referral fees earned by almost all of the ten motor insurers in our sample, these motor insurers all told us that the size of the referral fee was only one of the factors they considered when establishing or renegotiating an agreement with a CMC/CHC for the provision of credit hire services, and that they also considered the quality of the services provided.*

We object to **footnote 16** being hidden below the narrative. This text needs to get into the relevant paragraph. How much costs apply to each group.

Similarly **footnote 17** needs to get into the text in the Appendix. If quality of service is important, then **why has the CC failed to recognise this** – this is what we say we provide as an independent mediator facilitating a fair settlement between the insurers and the claimants (who do not pay for our service). Also, as insurers pass on their referral fees in lower premiums, this process creates a virtuous circle, just like money flowing in an economy to enable economic transactions.

- The referral fees, which the CC seems to unfairly condemn, are an **essential lubricant** enabling claimants to find a solution quickly at time of need, when caught in a non-fault accident. Without these referrals on a considerable scale, the non-fault claims recovery system could freeze to a low level, threatening the viability of CHCs. Those providing the leads need some form of remuneration/incentive to do so, and market forces set the referral levels.
- We are concerned whether [ ✂ ] this dynamic and important issue; and emphasise that we carry the risks when we provide our services at no charge to claimants. So if the scale of work falls, and the cashflows from settlements (under the GTA) becomes erratic, the CHCs viability also becomes affected. In turn, this will

harm hundreds of thousands of consumers. This knowledge alone must be noted in the Appendix, and taken to Section 6 of the CC's report. [ REDACTED ].

- We do note that the CC has no problems with PCWs receiving commissions, and indeed it says they are so important that the CC does not wish to harm them, for example by the following text in para 102 of the Remedies Notice:

*102. We are minded not to consider further a remedy which prohibits all MFN clauses. We consider that it would be disproportionate to prohibit all MFNs if the prohibition only of 'wide' MFN clauses were to be considered an effective remedy because the former would clearly be more onerous. We have **significant concerns that a prohibition on all MFNs would threaten the existence of PCWs**. Without 'narrow' MFNs, consumers could search for policies on a PCW but then might be able to obtain the chosen policy more cheaply by visiting the insurer's website directly, and the PCW would **not be rewarded** for the service it had provided.*

The same thinking is needed to ensure that taking away the CHC sector's ability to earn income, in a predictable way, does not destroy it. We note that paragraph 69 of the Remedies Notice said the CC would not prohibit credit hire, for example because this decision would leave impecunious non-fault claimants in a position where they might not be able to access a replacement car (e.g. where fault is undetermined).

The same thinking is needed to ensure **CHCs are able to get sufficient leads to remain as a force for good**. If our revenues, and ability to earn this are threatened, the impecunious as noted by the CC, will without doubt suffer.

We think the narrative in paras 41(b) and (c) show bargaining power depends on who gets the leads, and that too shows a pro-competitive outcome effecting hundreds of thousands of claimants a year. The CC has not said how it can come up with a better solution, and we await this information in the next draft of this Appendix.

### ***Bad debt provision [or settlement discounts]***

*42. Bad debts arise under credit hire when:*

- (a) there is a dispute over a credit hire bill;*
- (b) subsequent evidence suggests that the non-fault driver was at fault; and/or*
- (c) the non-fault driver is found to have submitted a fraudulent claim.*

*43. Under the terms of a credit hire agreement, the customer is ultimately liable for the costs of the provision of replacement car services should the CMC/CHC be unable to recover the costs from the at-fault insurer. However, the nine CMCs/CHCs in our sample told us that they rarely sought to recover costs from non-fault drivers.*

This section starts by **missing an important point**, namely that what the CC labels bad debts, in many cases they may be simply **a settlement discount agreed** between the insurer and the CHC. There will be occasions where both parties will agree to disagree over a point of principle and look for the best way to settle. This should not be classed as a bad debt in our opinion.

The CC should therefore look into this in greater detail in an attempt to identify the impact of this within their workings.

### ***Extent of bad debt write-off***

*44. The risk of non-recovery or only partial recovery of the costs incurred by CMCs/CHCs under credit hire is reflected in the high level of debt write-offs recognized by CMCs/CHCs. Table 8 shows the credit hire debt write-offs for the nine CMCs/CHCs in our sample. The table shows that, in 2012, CMCs/CHCs wrote off between [%] and [%] per cent of their gross revenue, with an unweighted average write-off of 20 per cent.*



TABLE 8 Credit hire debt write-offs, 2012

CMC/CHC	Write-offs £			Write-offs as proportion of gross revenue %		
	GTA*	Non-GTA	Total	GTA*	Non-GTA	Total
Accident Exchange	XX	XX	XX	XX	XX	XX
ACM†	XX	XX	XX	XX	XX	XX
AI Claims Solutions	XX	XX	XX	XX	XX	XX
ClaimFast	XX	XX	XX	XX	XX	XX
Crash Services‡	XX	XX	XX	XX	XX	XX
Enterprise§	XX	XX	XX	XX	XX	XX
Helphire	XX	XX	XX	XX	XX	XX
Kindertons	XX	XX	XX	XX	XX	XX
WNS Assistance	XX	XX	XX	XX	XX	XX
Unweighted average	9,356,973	3,393,580	12,750,553	18	30	20

Source: CMCs/CHCs.

\*We note that, in relation to claims settled under the GTA, the difference between the gross commercial value of a hire and the amount settled under the GTA's discounted rates is often the result of a settlement discount rather than a write-off.

†ACM does not provide credit hire services.

‡Crash Services does not subscribe to the GTA.

§Enterprise's credit hire activity is all under the GTA.

For reasons given above, we object to the narrative. As stated write-offs are not because of over-charging, which appears to be the suggestion. There are a whole host of reasons where a claim may be affected by a shortfall in payment. It is worth noting that there are a vast number of parties and touch points in the actual claim process all prone to potential delay/basic human error but that all have to work together to ensure that the claim is processed efficiently. Kindertons' show below a typical journey and the requirements for each party for a Credit Hire & Repair claim:-

- Client – being available at the specified time and location for delivery.
- Transport Team – being on time for the agreed delivery slot.
- Repairer – being on time for the agreed collection slot of the customer's vehicle.
- Engineers – being on time for the inspection of the client's vehicle.
- Repairer – ensuring the estimate is processed within the GTA guidelines.
- Engineers – ensuring the repairs are authorised in line with the GTA guidelines.
- Repairer – ensuring the repairs are started in line with the GTA guidelines.
- Parts Supplier – has the parts readily available and delivered in a timely manner.
- Repairer Staff – are all present and working together to process the repair.
- Repairer – ensures they complete the repair within the time frames agreed with engineer.
- Client – available for the return of their vehicle.
- Repairer – on time for the agreed return of the client's vehicle.
- Client - happy with the repairs.
- Transport Team – on time for the agreed collection of the hire vehicle.

Throughout all these touch points a Kindertons' Claims Handler is monitoring the claim to ensure that these events happen on time.

It is inevitable then that with all these links in the process that disagreements will occur and a discounted settlement then agreed. [ REDACTED ].

- There are of course, then the added disputes of liability, which will impact on this data. For example, we may have taken a case on for a claimant and at the outset based this decision on the information provided, making us confident of a full recovery. Further evidence may then come to light which would mean a reduction in recovery, as reflected in the data the CC has displayed.

As we are in effect mediators, discounts with the party paying in the end are a fact of life. Discounts happen in all industries, including building works and construction, and manufacturing, as well as service industries. The CC's central allegation should be seen as groundless that we create *unnecessary* costs from separation. The CC also needs to realise that where CHCs write down their total charges (fairly based) to give insurers a discount, then the at-fault insurer **pays less**, and thus benefits from a cheaper service. Why is this not shown in the narration?

Footnote 17 should be included in the text of the Appendix and not hidden from the reader. It has important points to note.

*45. [%] told us that write-offs were driven by the severe cash flow pressures on CMCs/CHCs, caused by lengthy settlement periods, which often required them to accept lower settlement payments than were justifiable.*

Ultimately insurers do have this power and therefore they have the ability to use it as a driver for discounts. The insurer has bargaining power to demand discounts, especially when many claims are on-going at the same time. We need this clarification in the text, which needs to flow to the CC's Section 6 and conclusions.

*46. Table 8 also shows that, in 2012, the level of write-offs was significantly higher for*

*credit hire claims outside the GTA than for claims within the GTA, which suggests that the GTA plays a significant role in providing a framework for the efficient negotiation and settlement of credit hire claims.<sup>18</sup>*

footnote 17 - However, since the 'non-GTA' category includes claims that fell out of the GTA because of litigation, part of the difference in write-offs may be due to selection bias.

We note the last part of this para states the GTA enables better relations for a mutually acceptable settlement. Again, write-offs are also for **discounting reasons** and not because of overcharging. If the CC investigated these items, it would confirm what we say.

**We acknowledge** that companies operating outside the GTA have opportunities to raise at-fault insurers' costs by forcing litigation, etc. [ ✂ ] should be separated out of the CC's figures in the Tables 8 and 9 and separately reviewed. Where they create unnecessary costs on insurers, the solution is to force them into the GTA framework, or forbid them from acting in this sector. Anything more is a disproportionate remedy on innocent large CHCs like Kindertons.

- These unregulated businesses can charge higher rates than the GTA, and might give larger discounts for settlement simply [ ✂ ]. If the insurers say they are the target of overcharging, we say such data is not on these tables in a way to show this is the cause of the root problem – we request the CC shows this evidence or states clearly that the allegation is false.

Table 8 accordingly requires more work to remove the [ ✂ ] data included therein, which purports to penalise GTA compliant CHCs. The non-GTA CHCs should receive greater attention in the tables. We support strengthening the GTA in the public interest – as noted the GTA has representatives from insurers, so it is inherently fair to all sides.

Footnote 18 is also important and needs to get into the para 46 narrative. We do believe the CC's data in the tables must reflect selection bias as the footnote seems to confirm this point. The table needs correction to remove the 'biased' data, or deletion.

**The message from Table 8**, which needs to get into the narrative, is that the GTA framework (i.e. an industry solution between insurers and CHCs/CMCs) produces better results than by letting businesses operate outside this framework. So this framework needs to be strengthened to ensure all involved in CH provision, work within the framework. The CC picks this up in its Remedy 1C, which we endorsed on pages 43 to 47 of our Response

to the Remedies Notice.

47. [%] told us that the likelihood of full recovery from the at-fault insurer fell as the size of claim increased, as shown in Table 9.

TABLE 9 [%] claims recovery (last three years)

	Value of claim (£)			
	[%]	[%]	[%]	[%]
Cases where full recovery was made (%)	[%]	[%]	[%]	[%]

Source: [%].

48. Direct hire **write-offs are less frequent than credit hire write-offs**, as direct hire is **usually arranged** at pre-agreed rates with the party paying for it. For example, [%] told us that, historically, it wrote off around [%] to [%] per cent of its non-credit hire revenue, and this was only if it failed to provide adequate services to the insurer or customer (eg relating to the delivery of the car, the billing process or the hire duration).

This para is misleading. The CC suggests Direct Hire operators are better at controlling costs but this omits the reality that the only [ REDACTED ]. So by definition, it will not have write-offs when it is doing work for its principal. How has the CC dealt with any of this fundamental difference between CHCs and DH business models?

- The Direct Hire operators are under the insurers instructions, and have no obligations to claimants (to the extent that the insurers don't seek to co-operate with these members of the public). So clearly the issue of write-offs from disputes between principal and agent is not going to happen, and the Direct Hire operator sees things from the insurers point of view. The CC's comparison is therefore wrong, as a matter of logic, when taking account of the nature of the relative relationships with insurers.
- It follows that the CC's narrative wholly fails to understand the relationships going on between CHCs and DH operators, and their different stakeholders. This apparent error of principle has caused us much trouble in dealing with this Appendix, and Section 6 of the Provisional Findings, etc.

As we have noted above, there is no valid comparison between our service to non-fault

claimants i.e. the public, and Direct Hire operators who report to the insurers engaging them, effectively as an in-house self-supply service.

It is a false narrative to make this comparison which should not be part of this section of the Appendix, nor included in Section 6, nor the CC's conclusions. [ REDACTED ]. This presentation favours insurers' interests at the expense of CHCs – [ REDACTED ].

49. Table 10 shows the proportion of full and partial write-offs recorded by the CMCs/CHCs in our sample in relation to credit hire bills in 2012.

TABLE 10 Full and partial credit hire write-offs, 2012

CMC/CHC	Full write-offs £	Partial write-offs £	Total write-offs £	Full write-offs as a proportion of total write-offs %	Partial write-offs as a proportion of total write-offs %
Accident Exchange	X	X	X	X	X
ACM†	X	X	X	X	X
AI Claims Solutions	X	X	X	X	X
ClaimFast	X	X	X	X	X
Crash Services‡	X	X	X	X	X
Enterprise	X	X	X	X	X
Helphire	X	X	X	X	X
Kindertons	X	X	X	X	X
WNS Assistance	X	X	X	X	X
Unweighted average	1,790,748	9,810,173	11,600,922	15	85

Source: CMCs/CHCs.

\*We note that in relation to claims settled under the GTA, the difference between the gross commercial value of a hire and the amount settled under the GTA's discounted rates is often the result of a settlement discount rather than a write-off.

†ACM does not provide credit hire services.

‡Crash Services does not subscribe to the GTA.

50. The vast majority of debt written off by CMCs/CHCs in relation to credit hire is due to a partial write-off, ie a settlement discount being agreed with the at-fault insurer, rather than a full write-off, which only tends to occur where subsequent evidence suggests that the non-fault driver was actually at fault. Disputes in relation to credit hire (eg the customer's need for it, the class of car, the hire duration, and the daily rate) are much more common than disputes in relation to liability for the accident. We note that [%].

Given our objections above about this misleading analysis, the CC should realise its narrative compounds its errors. Partial write-offs on table 10 really should be corrected to include '**settlement discounts**'.

We also think the unweighted averages tell little. We need the causes of the write-offs to be identified between those which are benign and not objectionable, and those which the CC

says are the fault of CHCs. When this is done, we believe the percentages to criticise CHCs will be negligible. [ REDACTED ].

*51. Table 11 shows that the termination of a credit hire claim due to a change in the initial assessment of liability (from non-fault to at-fault) only occurs, on average, in between [%] and [%] per cent of cases. This appears to be due to the significant time and resources spent by CMCs/CHCs in establishing liability.*

TABLE 11 Termination of credit hire claims due to a reassessment of liability, 2012

CMC/CHC	Proportion of credit hires claims terminated due to a reassessment of liability %	Proportion of credit hires claims terminated due to fraud %
Accident Exchange	[X]	[X]
ACM	[X]	[X]
AI Claims Solutions	[X]	[X]
ClaimFast	[X]	[X]
Crash Services	[X]	[X]
Enterprise	[X]	[X]
Helphire	[X]	[X]
Kindertons	[X]	[X]
WNS Assistance	[X]	[X]
Unweighted average	1.73	0.37

Source: CMCs/CHCs.

We believe the overall results of **1.73% and 0.37%** need direct narrative in the text of para 51, with the comment that these extremely low numbers (almost zero) show the value and importance of CHCs in preventing fraud, and ensuring the insurers pay a proper and fair liability on bona fide non-fault claims. This conclusion needs to be taken to Section 6 as a clear finding of fact.

*52. Accident Exchange told us that, in cases where the non-fault driver's car was not roadworthy as a result of an accident (and therefore, the driver required a replacement car **immediately**), it might make an **initial assessment of liability** and agree to provide hire on that basis pending further investigation. In cases where Accident Exchange subsequently changed its initial assessment, the hire might have to be terminated. Accident Exchange said that this was rare but, if it did happen, then it **would bear the hire costs incurred** up to that point. A similar service is offered by Kindertons.*

This demonstrates the pro-consumer nature of the service we provide. And the CC can see we do this at our risk as a service to the consumer. The insurers or their direct hire contractors would not be incurring these costs. So how does the CC take account of the

qualitative better difference between Credit Hire and the Direct Hire agency service? As we say, there is no comparison. This reality should get greater prominence in the CC's thinking about our role in the market.

- In effect, we are providing a **valuable free service** to bona fides claimants at point of need, and at our risk, we assess whether they qualify as non-fault drivers. When this is incorrect, we bear the losses. These are all legitimate cost that need to be recovered from the charges we make, and that somehow has got lost in the thinking of the CC. This is our USP which DH contractors, and their tied insurers can not duplicate or rival.

If the CC however, says our service is not pro-consumer, then it should clearly state that, with its reasons, in its drafted report. We are sure there will be many who would **disagree** very strongly. Certainly we have noted in our response to the Remedies Notice that remedies that harm our business will fail the test that looks at loss of relevant customer benefits. We ask the CC to look also at this section of our response – see pages 62 to 67.

*53. [%] told us that, if a CMC/CHC changed its initial assessment of liability, it could only recover its costs from the non-fault driver if the driver had deliberately misled it or made a fraudulent claim. It said that the costs of pursuing such drivers and the likelihood of not making any meaningful recovery meant that it would usually suffer the loss.*

### **Cost of credit**

*54. A CMC/CHC incurs a working capital cost in providing credit hire services because it does not receive immediate payment.*

*55. The cost of credit incurred by CMCs/CHCs depends both on the cost of the service provided and the time taken to recover that cost from the at-fault insurer. CMCs/ CHCs told us that this time was often significant. For example, Helphire told us that its debtor days were around [%] days, whereas its typical credit period under a direct hire agreement was [%] days. Ai Claims Solutions told us that, although it recovered over [%] per cent of its invoices in full, it took on average [%] days to receive payment.*

The above is noted. These too are costs that we incur, but are not likely to arise in the Direct Hire agency relationship. We are working at our own risks, as mediator for the claimant, and not agents for the insurer. This creates a tension, and we have to do a good



job to ensure there are few or no excuses to hold-up settlement and payment of our charges in due course. Our success should be noted by the relatively low level of discounts we may grant insurers, in particular cases to prompt faster settlement under the GTA. This was covered above, under the write-off or discount section.

### **Administrative costs** [*concept of avoidable costs*]

*56. Motor insurers and CMCs/CHCs incur administrative costs in the management of a credit hire claim, eg in the setting up of the claim, the assessment of liability and the processing and submission of documentation to the at-fault insurer (in line with GTA guidelines, such as the mitigation statement).<sup>19</sup>*

*Footnote 19 - Under the terms of the GTA, a mitigation statement signed by the non-fault driver must be provided by the CMC/CHC to the at-fault insurer. This statement should set out the reasons why the non-fault driver requires a replacement car.*

No comment on text. But footnote should go into the text. We comply with this.

*57. We have considered two categories of administrative costs relevant to assessing the effects of the separation: (a) duplicated administrative costs, which arise from having two parties (rather than one) involved in the management of a non-fault claim; and (b) frictional costs, which arise from having two parties with different interests involved in a non-fault claim.*

As the CC will note below, we object to the idea that CHCs are duplicating costs. When two parties are involved in a claim it is natural that each side will incur costs, these are necessary in order to ensure each side are treated fairly and justly. The Insurance Ombudsman exists for this situation where insurers do get things wrong i.e. don't treat claimants fairly. How can the CC therefore say that the parties (i.e. CHCs) that help a claimant recover losses (which the insurers would or might reject) are duplicating costs?

Have the CC investigated the number of cases where the Insurers have not acted properly, and **had to pay compensation** because of their failure within the current environment? We would expect that where a CHC or CMC is acting on behalf of the other party that these instances will be low in number (because of our skill). Equally we would suggest that where the other party has no representation the number could be significantly higher (because the power is with the insurer to [ ✂ ] the claimant). How has the CC taken account of these relative factors on insurers?

We also dispute the false and misleading notion that we create frictional costs. These costs too are needed because without our role in the settlement spectrum, and without the



## Non Confidential version – for the Competition Commission

existence of CHCs, insurers would have an incentive to treat claimants badly as they did in the past. [ REDACTED ].

To sum up, the CC's narrative is inaccurate, in our view, to paint a *false and misleading* picture about CHCs because it has failed to realize the valuable role we play in the non-fault settlement process for millions of people

Contrary to the CC's apparent views on CHCs, we believe it should look at [ ✂ ] insurers, [ ✂ ], and ensure that where they incur unnecessary costs, these are ring-fenced (as avoidable costs), [ REDACTED ].

*58. This section discusses both the costs borne by CMCs/CHCs and those borne by at-fault insurers. It must be kept in mind that while the former contribute to the difference between credit hire and direct hire daily rates, the latter constitute an additional component of the costs to at-fault insurers not captured by the difference in rates.*

Given our criticisms of the CC's thinking, as noted in preceding paragraphs, we do not accept the narrative here, and request it is reconsidered on grounds of fairness.

### **Duplicated administrative costs**

*59. Duplicated administrative costs are those costs which arise from both the CMC/CHC managing the provision of replacement car and the at-fault insurer, which will ultimately pay for it, conducting similar activities. These costs primarily include the employment of claims handlers to:*

- (a) assess all circumstances relating to the provision of replacement car services, including the accident circumstances and the non-fault driver's need for a replacement car;*
- (b) assess (prior to the commencement of the hire period) whether the non-fault driver's car is roadworthy;*
- (c) assess whether the non-fault driver's car is economical to repair<sup>20</sup> and the repair methodology and cost is reasonable;*
- (d) ensure that the non-fault driver has entered into a binding and enforceable contract for the supply of replacement car services;*
- (e) monitor actively the repair of the non-fault driver's car during the hire period or the total loss settlement process (for write-offs), in order to keep the hire costs to a minimum; and*
- (f) manage the recovery/payment of claims.*

For reasons given above, we do not accept the idea that our costs are duplicating anything. Our costs are essential to the service we provide to the public, to ensure their rights are respected, and bona fide claimants of non-fault accidents recover their losses, with minimal impact on their time and resources. This is an essential cost, which the CC should protect from any remedies that threaten our continued existence (just like it is doing for PCWs as noted above).

- The public that benefit from our service, constitute a wide constituency of perhaps 1 million people a year. Of this, CHCs, as shown in the CC's analysis handle at least 300,000 claims a year. This is a tremendous service, and success. The CC needs to acknowledge this value, and if not done, we must necessarily question the thinking behind such conduct.
- Moreover, we object to any narrative in the CC's report which [ ✂ ] favours insurers at the expense of CHCs, to the extent that such narrative is not supported by credible evidence. [ REDACTED ].

We believe that where any doubt prevails, the CC should [ ✂ ], because of the importance of the work we do for clients, free of charge, at the point of need. Our service, especially to impecunious people is very valuable.

Accordingly we object to any [ ✂ ] comment that we duplicate costs (or create frictional costs). However, on the contrary we believe the CC **will discover a lot when looking at the insurers to see how they [ ✂ ] money**, and yet, are still able to pass their costs to the public in increased premiums. [ REDACTED ].

We repeat that the CC has done little work to identify the **wasted costs** incurred by insurers who delay settlement with us. A recent example of this involving one of our claims is detailed below, and this is not an isolated incident. In this particular claim the accident happened in March [ ✂ ] and yet the claim was only settled in October 2013, you will note the absurd level of wasted costs which does not even account for the insurer's own costs in this matter. Indeed, it may be useful for the CC to follow-up on this with the insurer.

**The claims of Mr [X] for low value personal injury, repairs and credit hire – The unreasonable behaviour of [X] in refusing to accept their liability under Road Traffic Act 1988.**

A brief history: These claims arose from a road traffic accident on 6<sup>th</sup> March [X] in which a third party drove into the rear of the claimants' stationary vehicle. Claims were brought against the negligent third party driver for 'whiplash' type injuries with individual values of between £1000 - £2000 with Mr [X], the owner of the vehicle, also bringing a claim for repairs of £3,050 and hire of £5,576.34.

The third party vehicle was owned by [X] Ltd and was driven at the time by a Mr [X] who [X] Ltd sought to hold liable thereby avoiding theirs and their insurer's liability. [X] insured the vehicle owned by [X] Ltd.

A chronology of the events within the litigation follows; Particular emphasis is placed upon the conduct of NIG:

- 1) [X] - The claim notification forms (hereafter referred to as CNF's) were submitted to [X] via the electronic portal;
- 2) 6/04/2011 – [X] accepted the claims;
- 3) 21/4/2011 – [X] responded electronically denying liability;
- 4) 26/4/2011 – We wrote to [X] asking that 'for the sake of completeness' they confirm they are the correct Road Traffic Act insurer as no counter allegations were made;
- 5) 4/5/2011 – we wrote again asking for confirmation that they are RTA insurers and giving the requisite notice under S.151 Road Traffic Act 1988 that we intended to issue proceedings;
- 6) 11/5/2011 – we disclosed all evidence to [X] and invited settlements without the need for litigation;
- 7) 16/6/2011 – we chased a response to our previous letter, again giving them the chance to settle pre-issue;
- 8) 8/7/2011 – [X] wrote to us stating that due to a number of irregularities the policy of insurance is 'probably avoidable'. However, they acknowledged within the same letter that they do have a liability 'to meet a judgment obtained';
- 9) 21/7/2011 – proceedings were sent to the Court to be issued;
- 10) 29/7/2011 – [X] wrote to us indicating that they would seek to be introduced to any proceedings as Second Defendant;
- 11) 29/7/2011 – proceedings were issued in [X] County Court;
- 12) 18/7/2011 – the Defendant failed to respond and Summary Judgment was requested;

- 13) 19/12/2011 – following a disposal hearing the first and second claimants were awarded £11,336.34 and £1969.00 respectively and the Defendant was ordered to pay total **costs of £23,567.80**;
- 14) 4/1/2012 - we wrote to [X] with a copy of the Judgment requesting payment from them under their liability as RTA insurers which they had previously admitted;
- 15) 23/1/2012 – the Court lists a hearing of the Defendant’s application to set Judgment aside;
- 16) Hearing is later adjourned until [X];
- 17) 7/2/2012 – we issue a separate set of proceeding this time against [X] to enforce their liability as RTA insurers;
- 18) 13/2/2012 – a defence is received on behalf of [X] Ltd claiming that a **collision never took place**;
- 19) 15/2/2012 – [X] failed to acknowledge the second set of proceedings and judgment was requested against them;
- 20) 22/2/2012 – [X] Solicitors contact us to say that **we have no cause of action** against [X] in the second set of proceedings and these should be discontinued;
- 21) [X] – Defendant’s application in first set of proceedings – outcome; Judgment set aside, Defendant to pay Claimants’ costs totalling £2640.00;
- 22) 5/3/2012 – it is indicated that [X] on behalf of [X] in the first set of proceedings will seek to bring the driver, Mr [X], in as second Defendant to avoid liability;
- 23) 7/3/2012 – Letter received from [X] Solicitors alleging that the second set of proceedings were issued prematurely and inviting us to discontinue;
- 24) 14/3/2012 – We write to the Court to inform them that the Defendant in the first set of proceedings has failed to pay costs within the required time;
- 25) 15/3/2012 – in the spirit of compromise and in light of the now ongoing first action we discontinued the second, enforcement proceedings against [X];
- 26) 9/5/2012 – given the Defendant’s allegations against Mr [X] we made an application to introduce Mr [X] as the Second Defendant;
- 27) 6/7/2012 – Mr [X] is introduced to proceedings as Second Defendant;
- 28) 6/7/2012 – We updated [X] as to the position regarding Mr [X];
- 29) 25/9/2012 – we obtained judgment against the Second Defendant and the matter is listed for a further disposal hearing on [X]. [X] will still ultimately have to meet any judgment;
- 30) [X] – Disposal hearing takes place however the Second Defendant turns up and therefore the matter is adjourned. The Second Defendant’s application to set judgment aside to be listed for a further hearing;

- 31) 25/10/2012 – The Second Defendant's application is listed for [X].
- 32) 2/11/2012 – we write to [X] again inviting them to settle at this stage as they clearly have a liability and this would save them money in the long run;
- 33) 9/11/2012 – we wrote to [X] chasing a response to our previous letter and enclosing a copy of the Second Defendant's application;
- 34) 8/11/2012 – letter received from [X] boldly stating "nothing has changed. Our obligation is to meet an unsatisfied judgment";
- 35) 28/11/2012 – [X] come on record for the Second Defendant;
- 36) 11/12/2012 – Second Defendant's application refused by Court and they were ordered to pay our costs of £4454.40;
- 37) 20/12/2012 – we wrote to [X] informing them of the Second Defendant's application being dismissed;
- 38) 8/01/2013 – we informed [X] of the Second Defendant's obligation to pay our costs;
- 39) 10/1/2013 – we gave [X] notice that we had issued enforcement proceedings against the Second defendant in respect of costs;
- 40) 28/1/2013 – [X] confirm they will be paying the costs for the Second Defendant;
- 41) 4/2/2013 – we made CPR Part 36 offers to settle the claimants' claims in the sums of **£10,717 and £1,341** for the first and second claimant's respectively;
- 42) 11/2/2013 – the Court lists the matter for an assessment hearing on [X];
- 43) 10/4/2013 – Judgment obtained for damages of £11,076.70 and £1,613.29 for the first and second claimants respectively. Costs to be dealt with at a separate hearing given the issue of proportionality between the two defendants;
- 44) 13/5/2013 – we wrote to [X] inviting them to settle the Judgment which remained unsatisfied. We notified them that should they ignore this correspondence we would issue further proceedings to enforce their liability;
- 45) 28/5/2013 – enforcement proceedings were issued against [X];
- 46) 14/6/2013 – the Court orders the defendants to pay the claimants' costs of **£49,329.34**.
- 47) 28/6/2013 – [X] instruct [X] Solicitors to defend the enforcement proceedings on the basis that they have no liability;
- 48) 8/7/2013 – we write to [X] asking if it is [X] intention to pay the damages and costs under their liability as RTA insurers;
- 49) 12/9/2013 – [X] write to us on behalf of [X] inviting us to discontinue the enforcement proceedings;
- 50) 23/9/2013 – the enforcement proceedings are listed for preliminary hearing on 15<sup>th</sup> November 2013;

- 51) [REDACTED] – **we receive payment of the damages and costs in full form** [REDACTED];
- 52) 3/7/2014 – [REDACTED] on behalf of [REDACTED] agree to pay the outstanding interest which has kept the enforcement proceedings live. Upon payment the Claimant discontinues the enforcement proceedings against NIG;
- 53) The matter is now completed;

The key points here are a total claimant cost of **£49,329** against an initial claim value of **£12,000**.

The long list of activities noted in para 59 shows our work is necessary and essential to ensure non-fault clients are treated fairly. How can the CC expect at-fault insurers to do this, adequately with a proper sense of fairness? If we were not doing our job, it might then fall to Regulators and the Ombudsman – would the CC also say their costs are duplicated. Would the CC ask the Government to reduce the budget for say the OFT, the Ombudsman, or other bodies acting in the public interest?

We add that if CHCs did not exist, the CC **must expect at-fault insurers to reject a large majority of bona fide non-fault claimants**. This should be based on statistics of what happened in the past. If the CC disagrees that there would be a problem in the future under the scenario of its strongest proposed remedies 1A and 1B, [REDACTED], perhaps at the round-table scheduled for the end of February 2014.

A finding on this 'expectation issue' based on a balance of probability basis, is something we would like to see revealed openly by the CC because of its importance to what we (and presumably other CHCs) need to do next, [REDACTED].

We add that in a new scenario where CHCs are unable to provide our services for free, a new model may arise, similar [REDACTED], where businesses will accept this risk to act for people in non-fault claims, but only [REDACTED]. By this, the CC is transferring liability for claims recovery to the victims of non-fault accidents, which is better than the impecunious losing out completely.

### **Frictional costs [mislabelled]**

*60. Frictional costs arise from the party controlling the replacement car provision under credit hire (the CMC/CHC) having a **different interest** from the party paying for it (the at-fault insurer). They are incurred by both the CMC/CHC and the at-fault insurer.<sup>21</sup>*

*Footnote 20 The assessment of whether a car is economical to repair is determined by comparing the likely cost of repair with the pre-accident value of the car.*

For reasons given above, we do not accept a broad-brush reference to the concept of frictional costs. It fails to take account of the good work we do. For the avoidance of doubt, our role does not introduce additional costs, and the benefits of what we do, massively outweigh the direct cost of our service, provided to customers at the point of need for free.

As a further thought, we would suggest that if our role, and that of insurers was **aligned**, then inefficiency and duplication might be an issue, but we are in a contentious environment, which is why the GTA was created to establish a framework of mediation, skill and judgement to reach amicable resolutions and settlement.

- This function can not be done by insurers alone as a one-sided process where they act with ultimate power. Settlement requires 2 parties exercising judgement. We provide this skill on behalf of claimants. Direct Hire operators, acting on behalf of insurers are not going to do this necessary job.
- We still say that after so many months of investigation, our key role was completely overlooked. We hope this gets into the narrative of Appendix A6(1) and the [X] text is removed. This message needs to get carried through to Section 6 where we object to the numerous [X] narratives against us, and the [X] accusation that we create frictional costs is repeated many times in Section 6. Given our comments above, we view such wording as [X].

To assist the CC, we believe in the next months, the CC needs to look very carefully at [X] costs, and spending. When it does so, rather than focus on our necessary cost (which are needed for reasons discussed above), the CC should look at **the 'avoidable' cost** [X]. For example, if insurers delay settlement (beyond the expected 30 days), then [REDACTED].

*61. The frictional costs incurred by a CMC/CHC in the provision of credit hire replacement car services to non-fault drivers include:*

*(a) administrative costs to increase the likelihood of the claim being settled by the at-*

*fault insurer—these include the costs of complying with the obligations of the GTA; and*

*(b) costs of pursuing and recovering credit hire claims, including litigation.*

*62. Table 12 sets out the frictional costs incurred by the nine CMCs/CHCs in our sample. It suggests that a CMC/CHC incurs, on average, £[%] to £[%] of frictional costs per credit hire claim.<sup>22</sup>*

TABLE 12 Frictional costs incurred by CMCs/CHCs, 2012

CMC/CHC	GTA claims		Non-GTA claims		All claims		
	Annual costs £	Average costs per claim £	Annual costs £	Average costs per claim £	Annual costs £	Average costs per claim £	Frictional costs as a proportion of average credit hire bill %
Accident Exchange	[X]	[X]	[X]	[X]	[X]	[X]	[X]
ACM*	[X]	[X]	[X]	[X]	[X]	[X]	[X]
AI Claims Solutions	[X]	[X]	[X]	[X]	[X]	[X]	[X]
ClaimFast	[X]	[X]	[X]	[X]	[X]	[X]	[X]
Crash Services†	[X]	[X]	[X]	[X]	[X]	[X]	[X]
Enterprise	[X]	[X]	[X]	[X]	[X]	[X]	[X]
Helpfire	[X]	[X]	[X]	[X]	[X]	[X]	[X]
Kindertons	[X]	[X]	[X]	[X]	[X]	[X]	[X]
WNS Assistance	[X]	[X]	[X]	[X]	[X]	[X]	[X]
Unweighted average							10

Source: CMCs/CHCs.

\*ACM told us that [X].

†Crash Services told us that [X].

We believe the narrative within this paragraph to be important. Para 61(a) refers to the ongoing costs in ensuring settlement is made within the GTA, this is a necessary cost to make sure the claim is presented to the at-fault insurer in the correct manner. Para 61(b) refers to the additional costs incurred in then recovering the claim value from the at-fault insurer which may lead to litigation. If the term frictional is to be used anywhere within the CC's report it is this area where it is most suitable.

As with the example already provided costs can spiral out of control once claims fall out of the GTA. These claims may well fall out due to legitimate reasons such as clear disputes on liability but equally they may fall out due to lack of communication and effort to agree settlement.

At this point we believe these costs become frictional and with this in mind the CC should attempt to separate them, as such within any of its tables in this appendix.

*63. Five of the nine CMCs/CHCs in our sample were able to provide us with an estimate of their overall frictional costs. However, there was significant variation in these estimates, with these costs representing between [%] and [%] per cent of the*



*average credit hire bill. It appeared to us that this reflected the difficulty for CMCs/CHCs to distinguish frictional costs from their general claims management costs.*

*64. In Annex B, we present an analysis of the different cost elements which are included within the frictional costs incurred by CMCs/CHCs. Administrative costs, in particular the cost of employing claims handlers to manage credit hire claims and to process documentation in line with the GTA, and litigation costs incurred in pursuing the at-fault insurer for settlement of credit hire claims are the largest elements of the frictional costs incurred by CMCs/CHCs.*

## ANNEX B

### Frictional costs incurred by CMCs/CHCs, 2012 (split by GTA and non-GTA claims)

CMC/CHC	GTA claims				Non-GTA claims				£
	Admin costs	Litigation costs	Annual costs	Average costs per claim	Admin costs	Litigation costs	Annual costs	Average costs per claim	
Accident Exchange	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	
ACM*	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	
AI Claims Solutions	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	
ClaimFast	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	
Crash Services†	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	
Enterprise	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	
Helphire	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	
Kindertons	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	
WNS Assistance	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	

Source: CMCs/CHCs.

\*ACM [X].

†Crash Services [X].

As noted above, there is little wonder that CHCs/CMCs can not identify any frictional costs for the simple reason that these are their essential costs to do their job, on behalf of non-fault claimants i.e. the public. So the variation in results is driven by the impossible task they were given by the CC. The CC's results here are meaningless, and the argument on frictional costs is based on a CC error on who is in fact driving unnecessary costs.

If the CHCs/CMCs were not able to recover their admin costs, litigation costs, and annual costs, as shown in Annex B, then they would be unable to cover their operating costs, and would be driven out of business. [ REDACTED ]. We note that Annex B shows no data at all, and object to this opaque lack of disclosure in the CC's analysis. It seems clear that the CC has meaningless results. [ REDACTED ].

We also believe more disclosure of averages and data in tables (that currently contain no public data) is required in this Appendix. This lack of information on which we can comment might be seen as a [X] **failing in this investigation**. Once

disclosed, the figures need proper explanation that the costs challenged by the CC, are in fact essential costs to CHCs/CMCs.

We note that the table on page 43 (not labelled with a number) under Annex B, also shows covered-over **concealed data** everywhere, and has a meaningless number shown of 10% as purported average frictional costs as a proportion of average credit hire bill. What is the substance for deriving this figure, and the soundness of the data used to derive this percentage. As said, we do not accept any of the costs shown in the table are not necessary to bona fide non-fault claimants, which should be the focus of the CC's investigation. We hope this too will be included in the updated text.

*65. The level of frictional costs incurred by CMCs/CHCs suggests that considerable resources are expended, in order to achieve settlement of credit hire claims. We also found that claims often lasted a long period. Accident Exchange told us that its debtor days were [%] days and that it spent on average around [%] resolving each claim.<sup>23</sup> Similarly, Ai Claims Solutions told us that its debtor days were over [%] days and each claim required, on average, [%] actions from the point of referral to the ultimate recovery of the claim.*

As we have noted above, frictional costs is a **misleading term** in this investigation, when used against CHCs/CMCs. Clearly there needs to be the investment of resource to ensure we are able to recover our claims as quickly as possible to ensure the continual existence of the business.

If the term frictional costs is needed, it should be **attached to the insurers** who have the ability to allow a claim, once agreed to move to settlement faster or slower. In the extreme, they refuse to settle and the Courts make them liable. The Insurers are therefore debtors of the claimant. How therefore can the CC assert that the costs of the claimant are unnecessary or 'frictional'? Without the costs, the debtor in this example would have escaped liability. All this logic shows the CC is wrong.

*66. Only two of the nine CMCs/CHCs in our sample ([%] and [%]) were able to provide a breakdown of their frictional costs between GTA and non-GTA credit hire claims. Based on [%] evidence, frictional costs incurred in relation to non-GTA claims (£[%] on average per claim) were significantly higher than those incurred in relation to GTA claims (£[%] on average per claim). We noted that, although the GTA is not binding and is open to interpretation, it does provide a framework for the **efficient negotiation** and settlement of credit hire claims. However, we also noted that the large discrepancy between GTA and non-GTA claims was explained in part by many claims which were initially submitted under the GTA **falling out of this system when they were not settled within 90 days**. As these tended to be the claims which were*

*most likely to be subject to dispute, they often required substantial cost in reaching settlement.*

We continue objecting about the CC concealing the data across the sector in the above text, which do not seem confidential when they are averages. The narrative within the final paragraph suggests that claims that drop out of the GTA were primarily ones in dispute, we do not agree with this and as mentioned claims also drop out simply because the at-fault insurer does not deal with them efficiently. There is no recognition of this within the CC's provisional findings. The text needs correcting.

*67. Ai Claims Solutions told us that the GTA facilitated a collaborative negotiation process and the GTA settlement guidelines were beneficial in providing higher industry standards, better relationships between CMCs/CHCs and motor insurers, and fewer frictional exchanges. Ai Claims Solutions told us that a claim process not under the GTA tended to be more combative. Accident Exchange told us that claims settled outside the GTA generally involved additional costs (such as legal costs, which were not usually fully recoverable) and took longer to settle, adversely impacting cash flow.*

We endorse the comments that the GTA is pro-competition and pro-consumer. Its reach should be extended to all businesses providing Credit Hire services. This issue should be taken to Section 6 of the Provisional Findings as a benefit of the current situation.

*68. We note that the frictional costs incurred by CMCs/CHCs are to some extent offset by (a) late payment penalties paid by the at-fault insurer to the CMC/CHC in respect of GTA claims not **settled within 30 days** of the claim being submitted by the CMC/CHC to the at-fault insurer (as set out in the GTA); and (b) the reimbursement of legal fees by the at-fault insurer in relation to successfully litigated credit hire claims.*

Here, the CC misses the point that in the majority of occasions there should be no reason why the claim is not settled within 30 days. Perversely if this was the case then costs on both sides would be significantly reduced which would go a long way to addressing some of the CC's concerns! Surely it is therefore in the best interests of the CC's investigation to examine ways of expediting the time to settle claims, focus on the portal and an extension to the GTA seem obvious solutions.

Again we refer the CC to our example of the claim previously described, to identify in some cases the lack of care taken by the at-fault insurer when disputing claims. Significant legal

fees are a direct result; and if the claim has gone that far, the resources used by the CHC will have been considerable. There is no explanation in detail within the CC's text to explain why claims go to litigation, has the CC done any work to determine those claims that actually do go to litigation are then actually won by insurers? Our data suggests that this is **rare** thus supporting the concept of avoidable costs. All these representations must go into Section 6 of the CC's report and not get buried in this Appendix.

*69. Table 13 sets out the extent of this offsetting income for CMCs/CHCs. In 2012, late payment penalties amounted to between [%] and [%] per cent of the frictional costs incurred by CMCs/CHCs.*

TABLE 13 Offsetting Income received by CMCs/CHCs, 2012

CMC/CHC	Annual Income		Income per claim		Income as proportion of frictional costs	
	Late payment penalties £	Reimbursement of legal fees £	Late payment penalties £	Reimbursement of legal fees £	Late payment penalties %	Reimbursement of legal fees %
Accident Exchange*	[X]	[X]	[X]	[X]	[X]	[X]
ACM†	[X]	[X]	[X]	[X]	[X]	[X]
AI Claims Solutions	[X]	[X]	[X]	[X]	[X]	[X]
ClaimFast	[X]	[X]	[X]	[X]	[X]	[X]
Crash Services‡	[X]	[X]	[X]	[X]	[X]	[X]
Enterprise	[X]	[X]	[X]	[X]	[X]	[X]
Helphire	[X]	[X]	[X]	[X]	[X]	[X]
Kindertons	[X]	[X]	[X]	[X]	[X]	[X]
WNS Assistance	[X]	[X]	[X]	[X]	[X]	[X]

Source: CMCs/CHCs.

\*Accident Exchange's offsetting income relates to both credit hire and credit repair claims.

†ACM [X].

‡Crash Services does not subscribe to the GTA and therefore is not entitled to late payment penalties under the GTA.

Table 13 and para 69 misrepresents our arguments about 'necessary costs' by CHCs and CMCs to run our business on behalf of non-fault clients, and 'avoidable' wasted costs that insurers incur to dispute and delay legitimate claims. [ REDACTED ]. The false allegation, applying the term frictional costs to CMCs/CHCs demonstrates the CC does not [X] understand this basic principle of fairness and which party is at fault. We hope our objection here has [ ✂ ] that our role on behalf of legitimate claimants as mediators/facilitators, is pro-consumer, and pro-competition especially because we do not charge for our services. We act in the public interest.

Insurers currently don't have any incentive to [ ✂ ], except if they believe they should follow the spirit of the GTA, or realise they could face the risk of legitimate litigation. The CC should redress this **systemic failure** by tracking the information in the accounts of the at-fault insurers, and [ REDACTED ]. We note so far that Section 6 of the Provisional findings

says nothing on this, [REDACTED]. Our representations need to get into Section 6 [REDACTED].

70. Table 14 sets out the frictional costs incurred by CMCs/CHCs net of offsetting income. It shows net frictional costs of £[%] to £[%] per credit hire claim, representing, on average, between [%] and [%] per cent of the average credit hire bill issued by a CMC/CHC to the at-fault insurer.

TABLE 14 Net frictional costs incurred by CMCs/CHCs (net of offsetting income), 2012

CMC/CHC	Annual frictional costs £	Annual offsetting income £	Net frictional costs £	Net frictional costs per claim £	Net frictional costs as a proportion of average credit hire bill %
Accident Exchange*	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
ACM†	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
AI Claims Solutions	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
ClaimFast	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Crash Services‡	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Enterprise	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Helpline	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Kindertons	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
WNS Assistance	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Unweighted average					5
Unweighted average excl [REDACTED]§					4

Source: CC analysis.

\*Accident Exchange's offsetting income relates to both credit hire and credit repair claims.

†ACM [REDACTED].

‡Crash Services does not subscribe to the GTA and therefore is not entitled to late payment penalties under the GTA.

§[REDACTED] offsetting income appears to be higher than its frictional costs. Therefore, we have excluded this when calculating the average frictional costs as a proportion of the average credit hire bill.

## Frictional costs incurred by at-fault insurers

71. An at-fault insurer incurs frictional costs in relation to the verification, negotiation and settlement of credit hire claims. These costs include:

- (a) administrative costs to verify and negotiate credit hire claims;
- (b) costs relating to the establishment and maintenance of mitigation strategies to reduce the cost of credit hire claims (eg non-fault party capture and bilateral agreements); and
- (c) costs of **challenging credit hire claims, including litigation**.

We think this section may be interesting. This data could reveal what we describe as unnecessary **AVOIDABLE** costs, which the CC [REDACTED]. They should not be called frictional costs as this misses the point of where fault lies in creating the waste i.e. with the insurers. This is a major *error of principle* in the CC's analysis all over this Appendix. We hope the error is now clear to see, and will be corrected. Specifically it is in the wrong

direction towards CHCs, and now needs to turn 180 degrees towards the at-fault insurer.

Treating these avoidable costs as wasted expenditure, is the reverse of the false and misleading allegation that CHC/CMCs create ‘frictional or duplicate costs’ which we have disputed for reasons above. And logic supports our reasons. Specifically, as the at-fault insurers are required to settle claims, then if they incur costs that delay fair settlement, or act in ways to force litigation where they lose, it is an **error of judgement** in the at-fault insurers’ internal systems [ REDACTED ].

[ REDACTED ].

Please can the CC ensure our comments are inserted into para 71, which needs to be radically rewritten [ REDACTED ].

In this connection we draw the CC’s attention to Annex C on page 45 of Appendix A6(1). Although all the data is concealed, to which we object, it must be clear that the 10 largest insurers [ ✂ ] under these headings. The motor policy-holders [ REDACTED ]. We expect to see this issue taken forward in Section 6, and some data e.g. averages needs to be revealed.

**NOTE for the CC decision-makers:**

As a general point of principle, we expect that if the CC produces a table, it needs to ensure the table is constructed, such that the public version for interested parties to read, will show some meaningful average/total information, and/or narrative for comment by outside parties.

ANNEX C

**Frictional costs incurred by motor insurers, 2012 (split by GTA and non-GTA claims)**

Motor insurer	GTA claims					Non-GTA claims				
	Admin costs £	Mitigation costs £	Litigation costs £	Annual costs £	Average costs per claim £	Admin costs £	Mitigation costs £	Litigation costs £	Annual costs £	Average costs per claim £
Admiral*	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Ageas Insurance	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Aviva	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
AXA	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
CISGIL	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
DLG†	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
esure	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
LV	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
RSA	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]
Zurich	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]	[✂]

Source: Motor Insurers.

\*Admiral’s frictional costs include frictional costs incurred in relation to credit repair as well as credit hire. However, Admiral estimated that the frictional costs associated with credit repair would be significantly lower than those associated with credit hire due to fewer areas of contention relating to credit repair.  
†DLG was unable to provide the relevant data. [✂].

We believe the averages should be disclosed in the above table. Otherwise the importance of this data is concealed.



The litigation costs section could be massive. As there are 300K claimants a year handled by CHCs, the motor insurers could reduce their costs by ensuring such claims proceed more quickly under the GTA, without need for litigation or delay. Our guess is savings vastly in **excess of £100 million could be possible**, and we hope the CC will publish relevant data, in the public interest, for more informed comment. This table **reinforces** [ REDACTED ], as we have discussed above. [ REDACTED ].

Also for the 3 insurers who use Direct Hire, how much of their costs could be attributed to supporting the direct hire agency operations, [ REDACTED ], as quoted by the CC in Table 6 above. We expect the CC to get to the bottom of this, and would be interested in knowing how far this will have progressed, at the next round-table meeting in a few weeks.

*72. Table 15 shows the frictional costs incurred by the ten motor insurers in our sample. The table suggests that an at-fault insurer incurs on average £[%] to £[%] of frictional costs per claim in verifying, negotiating, challenging (where necessary) and settling credit hire claims.*

TABLE 15 Frictional costs incurred by motor insurers, 2012

Motor insurer	GTA claims		Non-GTA claims		All claims		
	Annual costs £	Average costs per claim £	Annual costs £	Average costs per claim £	Annual costs £	Average costs per claim £	Frictional costs as a proportion of average credit hire bill %
Admiral*	[X]	[X]	[X]	[X]	[X]	[X]	[X]
Ageas Insurance	[X]	[X]	[X]	[X]	[X]	[X]	[X]
Aviva	[X]	[X]	[X]	[X]	[X]	[X]	[X]
AXA	[X]	[X]	[X]	[X]	[X]	[X]	[X]
CISGIL	[X]	[X]	[X]	[X]	[X]	[X]	[X]
DLG†	[X]	[X]	[X]	[X]	[X]	[X]	[X]
esure	[X]	[X]	[X]	[X]	[X]	[X]	[X]
LV	[X]	[X]	[X]	[X]	[X]	[X]	[X]
RSA	[X]	[X]	[X]	[X]	[X]	[X]	[X]
Zurich	[X]	[X]	[X]	[X]	[X]	[X]	[X]
Unweighted average							10

Source: Insurers.

\*Admiral's frictional costs include those incurred in relation to credit repair as well as credit hire. However, Admiral told us that it believed that the frictional costs associated with credit repair would be significantly lower than those associated with credit hire due to fewer areas of contention relating to credit repair.

†DLG was unable to provide the relevant data, [X].

*73. Nine of the ten motor insurers in our sample were able to provide us with an estimate of their overall frictional costs. However, there was significant variation in these estimates, with these costs representing between [%] and [%] per cent of the average credit hire bill. For CMCs/CHCs, this reflected the difficulty for insurers to*

*distinguish frictional costs from their general claims management costs. For example, CISGIL told us that it could not quantify the costs it incurred in setting up and maintaining bilateral and third party capture agreements, as these activities involved numerous CISGIL staff, who spent only a small amount of their time doing these things and the associated costs were therefore absorbed as part of their roles.*

We refer the CC to our comments in the preceding paragraphs. We have similar views relating to this text.

*74. In Annex C we present an analysis of the different cost elements which are included within frictional costs for insurers. Administrative costs, in particular the cost of employing claims handlers to manage non-fault claims, and the payment of late payment penalties in relation to GTA credit hire claims are the largest elements of the frictional costs incurred by insurers.*

*75. Six of the ten motor insurers in our sample ([%]) were able to provide a breakdown of their frictional costs between GTA and non-GTA credit hire claims, but only two were able to estimate a cost per claim. According to the evidence from these two motor insurers, frictional costs incurred in relation to non-GTA claims were higher than those incurred in relation to GTA claims for one motor insurer and they were almost identical between the two categories of claims for the other motor insurer.*

*76. Six of the ten motor insurers in our sample (Admiral, Ageas Insurance, Aviva, CISGIL, DLG and esure) told us that the level of disputes **tended to be higher for non-GTA claims than for GTA claims**.<sup>24</sup> For example, Aviva told us that it took about [%] to handle a non-GTA claim than a GTA claim. CISGIL told us that CMCs/CHCs which did not subscribe to the GTA were more difficult to negotiate with and usually presented higher credit hire claims (CISGIL's experience was that the daily rates charged by non-GTA-subscribing CMCs/CHCs were typically [%] per cent higher than the maximum GTA daily hire rates). In 2012, [%] per cent of its credit hire claims were outside the GTA, but these **claims accounted for [%] per cent of its litigation costs**.*

<sup>24</sup> Of the remaining four motor insurers in our sample, AXA does not subscribe to the GTA, RSA told us that it was unable to compare the level of disputes in GTA and non-GTA cases, and both LV and Zurich told us **that subscription to the GTA did not affect the level of disputes they experienced with CMCs/CHCs**.

We have commented above regarding Annex C. In para 76, we believe the non-GTA businesses should be required to follow the GTA rules. Footnote 24 should be incorporated into the relevant text.

*77. Despite the significant frictional costs incurred by at-fault insurers, it appears that,*



overall, they achieve significant **costs savings from challenging credit hire bills**.  
On this issue:

(a) Admiral **told us** that it saved costs in [%] per cent of credit hire claims settled in 2012 and the average saving was £[%] per claim.

(b) Ageas Insurance **told us** that it saved around [%] per cent on all credit hire bills in 2012, which equated to approximately £[%] million.

(c) CISGIL **told us** that it saved about £[%] million in 2012 as a result of challenging credit hire bills.

(d) Zurich **told us** that it achieved savings of £[%] million against credit hire claims in 2012 through challenging bills (£[%] million against GTA claims and £[%] million against non-GTA claims).

**We object to this narrative.** This is exactly the opposite of what we have noted in the preceding paragraphs. The CC has not identified how CHCs or CMCs are to blame for any costs incurred by at-fault insurers. As noted above, what the CC describes are write-offs can also be described as **settlement discounts**. The so-called frictional costs and duplicate costs were also mislabelled. They are necessary and essential costs of CHCs and CMCs, which must be noted in Section 6 of the Provisional Findings.

However, the insurers have substantial opportunities to avoid costs by engaging with CHCs etc. to reach prompt settlements. The CC's text above has [ REDACTED ].

To conclude, if the CC says particular Credit Hire businesses did anything wrong, it must identify them, and give them a chance to respond. Otherwise the text looks like [ ✂ ] narration, and [ ✂ ].

78. Table 16 compares the total credit hire bills received by six of the ten insurers in our sample ([%]) and the costs paid out in relation to these bills.

TABLE 16 Credit hire bills received and costs paid out by motor Insurers, 2012

Car type	Example car	GTA claims			Non-GTA claims		
		Total value of credit hire bills received £	Total credit hire costs paid out £	Difference %	Total value of credit hire bills received £	Total credit hire costs paid out £	Difference %
[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]	[ ✂ ]
Total		104,873,135	92,464,351	12	22,688,663	13,762,735	39

Source: Insurers.

*79. Table 16 shows that the six motor insurers saved, on average, 12 per cent against credit hire claims within the GTA through challenging the bills they received, and 39 per cent against non-GTA claims. The significantly lower savings made against GTA claims compared with non-GTA claims suggests that:*

*(a) the GTA is effective to some extent in providing a framework for the efficient negotiation and settlement of credit hire claims, such that fewer disputes arise; and/or*

*(b) there is significant friction in non-GTA claims, in part because this category includes claims which began under the GTA but fell out of that system.*

The information within the Table 16 and paragraph 79 reinforces the argument that claims within the scope of the GTA are easier to be handled. By the very nature of the increase in discounts that the at-fault insurers generate from those outside the GTA, this result indicates that these claims are more problematic and presented in an inflated manner.

We do not believe that the CC has **given enough credit** to the important role the GTA is playing within this industry throughout the content of this [Provisional Findings] report and this is something we urge the CC to state on record within their next version of this Appendix, and also in Section 6. This is hard evidence and not speculation.

*80. We note that the cost savings to motor insurers through challenging bills are partially offset by the payments made by insurers to CMCs/CHCs of late payment penalties under the GTA. For example, RSA told us that it achieved an average saving of [%] per cent of the total credit hire bill through challenging the bill, but incurred an average late payment penalty of [%] per cent under the terms of the GTA.*

We do not believe this trade off is correct. Late penalty payments are made because the insurer does not pay on time, hence these are **avoidable costs**. We do not see how the connection has justifiably been made between this and then costs to query claims? The two are not related and the offsetting is purely coincidental. The CC's narrative suggests that late payment penalties are only paid because the at-fault insurer queries an invoice, this needs to be amended to make it clear that they are two separate instances and **are not connected**.

### *Mitigation strategies*

*81. We have seen that the GTA helps in reducing frictional costs for both insurers and CMCs/CHCs. However, the GTA does not eliminate friction. It is the continuing presence of frictional costs which explains the presence of other mitigation strategies, in particular of bilateral agreements between motor insurers and CMCs/CHCs.<sup>25</sup>*

*Footnote 25 - Bilateral agreements may also include negotiated rates lower than the GTA rates, as the high GTA rates are **a root cause of the adversarial relationship between insurers and CMCs/CHCs.***

The CC will note by now that we do not accept this friction argument – if there is any ‘friction’ it is with the insurers who create avoidable costs. Our position needs to be inserted into the text and given equal prominence because the CC’s view is respectfully wrong. As we noted above, all our costs in our business are needed to do our job, independent of insurers. We have said all this must be narrated truthfully in Section 6.

**We object to footnote 25** – it continues the [✂] in the drafting, in not looking objectively at this situation. There are naturally 2 sides in any situation – is the CC suggesting the victim of insurance claims should not seek settlement? If the insurer is unduly difficult, should the victim be penalised? The CC fails to recognise the direction of insurance claims in the footnote’s poor drafting. We request it is reworded so it is not so [ ✂ ]. All this needs to get into the CC’s text in the Appendix and Section 6, and this [✂] footnote removed.

We repeat the GTA is pro-consumer and pro-competition (i.e. improves rivalry to ensure low cost services to insurers, on behalf of claimants).

We further object to the wording within the footnote: ‘**high GTA rates**’. This follows the CC’s [✂] with the comparison to direct hire throughout this appendix and request that this be removed. The main purpose of bilaterals between insurers and CHC’s are to improve efficiencies and reduce costs, and rate is not a driver. As the CC knows we have several bilateral agreements in place and their aims are fully aligned to this way of thinking.

*82. Bilateral agreements are typically in the spirit of but outside the GTA, specifying the terms of credit hire, including the daily hire rate, and the claims management and settlement process. Six of the nine CMCs/CHCs in our sample ([%]) have such agreements or protocols in place. For example:*

*(a) Accident Exchange told us that it currently had a non-GTA protocol arrangement with [%], whereby it accepted a fixed amount per claim, regardless of the recoverable value of each claim. This arrangement currently covered around [%] per cent of*

*Accident Exchange's credit hire revenue.*

*(b) Kindertons told us that it had 'specialised relationship' agreements with [%], [%] and [%]. These agreements were inside the GTA but were in place to expedite payments, minimize frictional cost and reduce litigation. Kindertons said that it also had 'working benefit relationship' agreements with [%], [%] and [%]. These agreements were outside the GTA and were created to remedy a past adverse relationship.*

This proves that insurers and CHC's can work together to invest in new processes and technology to improve efficiency and save costs. The CC should embrace this ethos when considering its next move within this process.

*83. The benefits of these agreements to CMCs/CHCs are: (a) fewer disputes and fewer claims requiring litigation, reducing frictional costs (eg Kindertons told us that, in 2012, only around [%] per cent of its claims involving relationship motor insurers resulted in litigation, compared with around [%] per cent of claims involving non-relationship motor insurers);*

*(b) faster settlement of claims (eg Kindertons told us that, in 2012, relationship motor insurers settled their invoices on average in [%] days, whereas non-relationship motor insurers settled their invoices on average in [%] days); and*

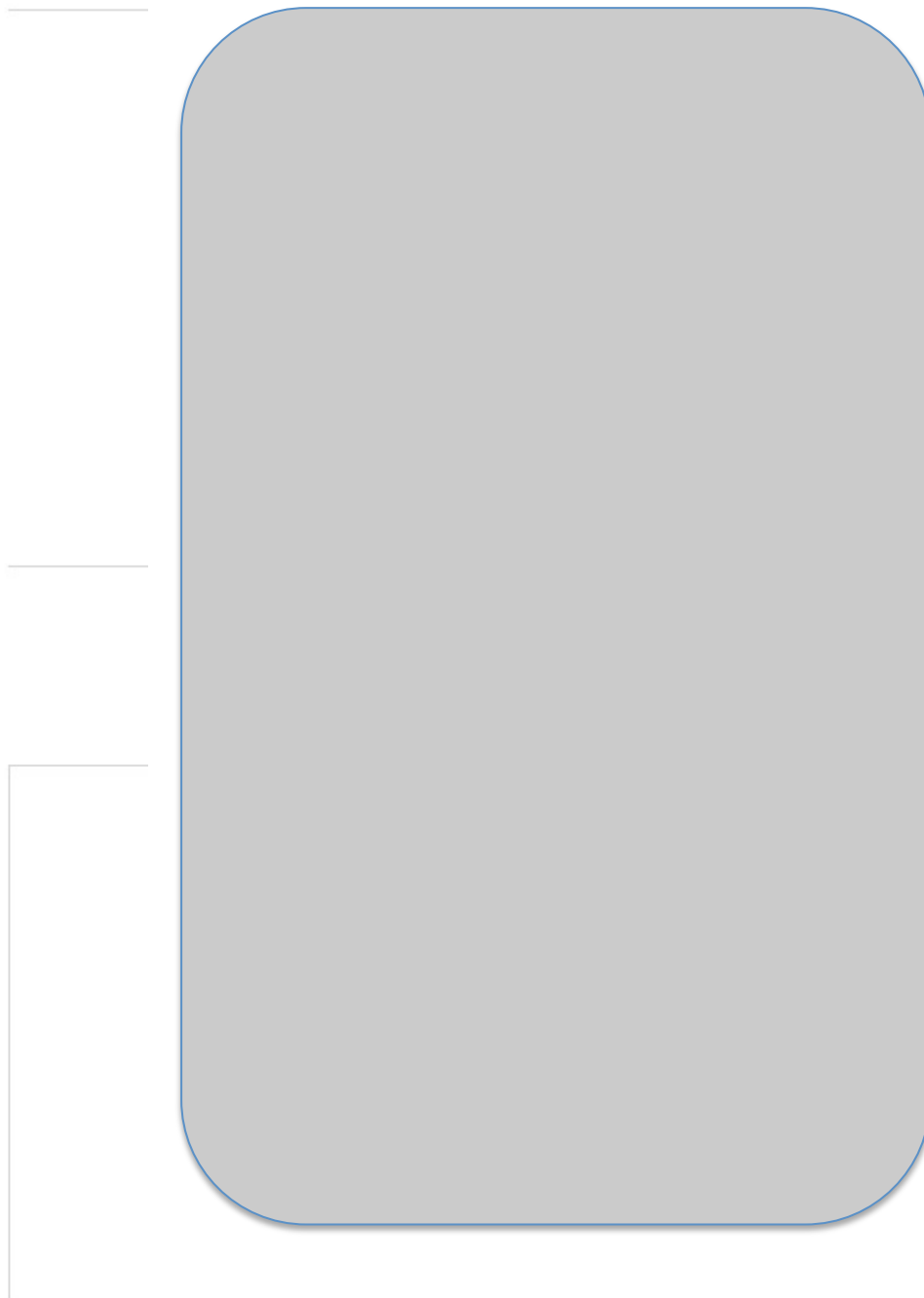
*(c) fewer resources required to comply with the obligations of the GTA and to pursue and recover claims.*

We add that these agreements require mutual co-operation to work well. The GTA works as an overarching framework. See also para 86. It is worth noting that since our last submission of data, our debtor days have now reduced to [X] days and this is a direct result of our commitment to work with insurers where we can. To reinforce this point the following illustration in Table 2 shows that compared to the original data provided to the CC in 2012 our claim numbers settled within both 30 and 90 days **have improved**. There has in fact been a positive shift of X% for claims settled within 30 days which is testament to our dedication to work with insurers and to minimise cost where possible.

Table 2 – see next page ... comparison of claims settlement profile in 2012, and in last six months ...

**NOTE: Chart redacted on next page ...**

Total



NB – orange = less than 30 days

Green = 60 to 90 days

Blue = 90 days

*84. Despite these benefits, Accident Exchange told us that [%].*

*85. Six of the ten motor insurers in our sample ([%]) have bilateral agreements with CMCs/CHCs. On this issue:*

*(a) AXA told us that, although the agreements took a number of months to set up, the work involved once the agreements were in force was minimal (ie the production of monthly management information to verify performance).*

*(b) esure told us that it had [%] agreements with CHCs: [%].*

No comment.

*86. The benefits of these agreements to motor insurers are:*

*(a) fewer disputes and fewer claims requiring litigation, resulting in reduced frictional costs;*

*(b) fewer resources required to manage non-fault claims;*

*(c) discounted settlement rates (eg [%]); and*

*(d) greater control and certainty over the cost of a credit hire claim (eg Admiral told us that, in 2012, [%] per cent of the credit hire claims it received under fixed fee arrangements [%] were settled at the negotiated flat rate, compared with only [%] per cent of claims under the GTA).*

We accept these agreements are good. The comments echo para 83.

#### *Analysis of credit hire duration*

*87. Credit hire duration tends to be longer than direct hire duration (see **paragraph 26 and Table 5**). In this section, we consider the factors affecting credit hire duration. be longer than direct hire duration*

Without repeating ourselves, credit hire is where we represent non-fault claimants directly, and these are often the more complex claims taking longer. Direct hire is the in-house service of insurers for captured claims, which usually are quick and easy to resolve. So there is nothing special in this narrative. But we think our explanation here should get into the text. We note the cross-referral to the earlier part of the Appendix – so maybe this section is in the wrong place.

## Repair duration *Paras 88 to 90*

88. Hire duration is largely determined by repair duration.<sup>26</sup> Table 17 sets out the average credit hire durations for the nine CMCs/CHCs in our sample under three scenarios:

(a) where a car is repairable and roadworthy; (b) where a car is repairable but not roadworthy; and (c) where a car is not repairable (ie a write-off). The repair duration, and therefore the credit hire duration, is longer if a car is not roadworthy, as (a) the driver is likely to require a replacement car immediately (often before the repair of their car has commenced); and (b) non-roadworthy cars typically have more significant damage than roadworthy cars and therefore require more extensive repair. Credit hire durations are longest where the car is a write-off, as a pre-accident valuation needs to be agreed and, under the GTA, the non-fault driver is entitled to a replacement for up to seven days following receipt of the settlement payment.

Footnote 26 Repair duration is the length of time taken to repair a car. The repair duration commences on the booking-in date and concludes when the car is returned to the customer. This is sometimes referred to as the 'key-to-key' period.

TABLE 17 Average credit hire durations for repairable cars and write-offs, 2012

CMC/CHC	Average credit hire duration (days)		
	Drivable car	Non-drivable car	Write-off
Accident Exchange	[X]	[X]	[X]
ACM*	[X]	[X]	[X]
AI Claims Solutions	[X]	[X]	[X]
ClaimFast	[X]	[X]	[X]
Crash Services	[X]	[X]	[X]
Enterprise	[X]	[X]	[X]
Helphire	[X]	[X]	[X]
Kindertons	[X]	[X]	[X]
WNS Assistance	[X]	[X]	[X]
Unweighted average	10.3	19.8	29.8

Source: CMCs/CHCs.

\*ACM does not provide credit hire or direct hire services.

†Enterprise told us that its average credit hire duration for non-drivable cars was likely to be lower than shown, as Enterprise's system recorded the drivability of the car at the time of the notification of the claim, and some repairable non-drivable claims became write-offs during the claim process.

89. Our survey of non-fault drivers found that 73 per cent of respondents who received a replacement car had the use of it for seven days or more, and 22 per cent had it for three weeks or more. The survey found that 41 per cent of respondents with a high level of damage to their car received a replacement car for three weeks or more compared with only 8 per cent of respondents with a low level of damage. This supports the view that credit hire durations are typically longer where the car has sustained more damage.



90. We asked repairers whether their processes for conducting repairs varied according to the work provider or the at-fault status of the driver. The majority of the repairers in our sample told us that they did not differentiate between at-fault, non-fault and captured claims in how they conducted repairs, including in the time taken to complete the repair. They told us that usually they did not know the at-fault status of the driver. [%] told us that it managed at-fault repairs to completion as quickly as possible but non-fault repairs were not as fast, as it was in the interest of the non-fault insurer or CMC/CHC to delay repair authorization and car inspection, in order to extend the hire period.

No comment

## Paras 91 to 95 – repair duration

91. All of the ten motor insurers in our sample **told us that a CMC/CHC could employ a number of methods** in order to extend the credit hire period, including:

(a) Arranging for the collection and delivery of a roadworthy car to the repairer prior to either the authorization of the repair or the repairer being ready to perform the repair (eg on a Friday afternoon). However, [%] told us that the practice of booking in non-fault repairs on a Friday was not now as common as it used to be. Table 18 presents the proportion of hire commencements by day of the week for the nine CMCs/CHCs in our sample and shows that, on average, <sup>15</sup> per cent of credit hires and direct hires commence on a Friday. This evidence supports the view that disproportionately booking in cars for repair on a Friday to extend a credit hire does not appear to be common.

We note the [✂] creeping in again in the first line of para 91. It should be [ ✂ ] because the allegation was not proved. But it looks strong because the CC says 10 motor insurers made this false allegation.

This illustrates the care we request in the drafting to ensure fairness and balance. As the allegation was false, the CC should state this here in para 91 by rephrasing that the allegation was refuted, or delete the whole allegation. **This principle should apply everywhere else that the bias against CHCs [ ✂ ] into the narrative.**

We are generally satisfied with the text in paras 91 to 95, so we make no further comment, and therefore do not reproduce the text. We think the analysis shown shows CHCs/CMCs are a force for good.



## Role of the GTA

96. Table 19 sets out the average credit hire durations for GTA and non-GTA claims for four of the ten motor insurers in our sample ([%]) and seven of the nine CMCs/CHCs in our sample ([%]). The average duration of a non-GTA credit hire claim is almost three times the average duration of a GTA credit hire claim when the claim has been referred to the CMC/CHC by a motor insurer. However, looking at credit hire services provided by CMCs/CHCs to all work providers, we note that the average hire duration is actually slightly lower for non-GTA claims than for GTA claims.

97. It must be noted that a comparison between GTA and non-GTA credit hire durations is affected by the composition of the two categories. The 'non-GTA' category includes not only the claims that are handled from the outset outside the GTA, but also those that fall out of the GTA because the bills are challenged by the at-fault insurers. In the second case, it is reasonable to expect higher average hire duration, because one of the most common circumstances in which insurers challenge a hire bill is when they perceive duration to be unjustifiably long.

TABLE 19 Average credit hire durations for GTA and non-GTA claims, 2012

Car type	Example car	GTA claims			Non-GTA claims		
		Hires	Hire days	Average hire duration (days)	Hires	Hire days	Average hire duration (days)
Credit hire services provided by CMC/CHC upon referral from Insurers							
Standard	Peugeot 107	[X]	[X]	[X]	[X]	[X]	[X]
MPV	Vauxhall Meriva	[X]	[X]	[X]	[X]	[X]	[X]
4x4	Toyota RAV4 2.0	[X]	[X]	[X]	[X]	[X]	[X]
Prestige	BMW 116 1.6	[X]	[X]	[X]	[X]	[X]	[X]
Sports	Mini Cooper 1.6	[X]	[X]	[X]	[X]	[X]	[X]
Total		71,442	1,173,343	16.4	4,911	215,068	43.8
Credit hire services provided by CMC/CHC to all work providers							
Standard	Peugeot 107	[X]	[X]	[X]	[X]	[X]	[X]
MPV	Vauxhall Meriva	[X]	[X]	[X]	[X]	[X]	[X]
4x4	Toyota RAV4 2.0	[X]	[X]	[X]	[X]	[X]	[X]
Prestige	BMW 116 1.6	[X]	[X]	[X]	[X]	[X]	[X]
Sports	Mini Cooper 1.6	[X]	[X]	[X]	[X]	[X]	[X]
Total		258,985	4,243,547	16.4	44,918	705,186	15.7

Source: Insurers and CMCs/CHCs.

We believe that the totals of claims handled under the GTA per annum **should be noted in the narrative**, readers will then realise what a good job is done by this framework arrangement.

Specifically, Credit Hire claims are around **258K via CHCs** to work providers, of which 71K

## **Non Confidential version – for the Competition Commission**

arise from insurer referrals. These numbers show the benefits to a multitude of drivers (and by extension their friends and families, employers and others). As we said at the beginning of this Response, we benefit perhaps a million people across the UK, directly or indirectly.

The CC decision-makers can not ignore this multitude of consumers, because of special interests by one or more insurers (who also should be acting within the Public Interest and treating customers fairly).

Of course, based on the narrative in the Section 6 and Appendix A6(1), [ REDACTED ].

We believe these further comments on the GTA should go into the Section on the GTA at the beginning of this Appendix. It is not clear why its narrative is all over the place, over than to cause confusion! The above statistics, as we said are very important for readers of this appendix to appreciate as quickly as possible the value of the GTA and what we do. [ REDACTED ].

## **Conclusion**

It should be plain to see that [ REDACTED ], we believe our observations and objections are valid. We request that our [ ✂ ] reasoning are shown in a revised version of Section 6 of the CC's report, and either lead to a change as we noted, or [ REDACTED ].

If the CC wishes to meet with us to discuss such issues, we will be happy to take this further in a spirit of co-operation. We hope the CC recognises its Remedy Proposal have prompted this response. As we said in our Remedies Response, [ REDACTED ].

## **Annex A**

We have discussed this Appendix (which clearly was important to the CC's workings) in great detail, around pages 16 and 28 above. Our representations provide very important information for the CC's attention on the weakness of this work. Our representations necessarily need to flow back into Section 6 of the CC's Provisional Findings.

We object that this Annex is not indexed at the beginning of the Appendix, which meant that no-one might discover it existed, and its significant purpose to the CC.

### **We note other Appendices as follows (relating to Section 6 of the PF):**

- 6.2 Cost of repairs
- 6.3 Vehicle write-offs
- 6.4 The effect on motor insurance premiums of changes in cost and revenue
- 6.5 Separation of cost liability and cost control and quality of services
- 6.6 The estimation of net effect on insurers' costs of the separation of cost liability and cost control
- 6.7 Effects on consumer surplus of the separation of cost liability and cost control

At this stage close to the CC's deadline for responses to the PF we have not had time and resource to deal with the above appendices. We reserve our position to comment on the text, but had to concentrate on what we thought were the 2 most important parts of the Provisional Findings from our point of view, namely Section 6 of the PF, and this supporting Appendix A6(1).

If there is anything in these other Appendices where the CC wants our views, please can it direct our attention to those places.

**Kindertons** 7 February 2014

--- end ---