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Dear Sir

Competition Commission – Private Motor Insurance Inquiry

NFU Mutual Insurance Society Ltd Response to Notice of Possible remedies

About NFU Mutual Insurance Society Ltd

The National Farmers Union Mutual Insurance Society Limited (NFU Mutual) is a composite insurer providing insurance, pension and investment products. We are a member of the Association of British Insurers (ABI).

We have a gross premium income for General Insurance in excess of £1.2billion. We have an award winning range of products and services.

NFU Mutual is a mutual company, founded in 1910. We do not have any shareholders and we do not therefore pay dividends. Our policyholders are members of the company. Members, as policyholders, are able to participate in the profitability of NFU Mutual through the 'Mutual Bonus'. This involves providing premium reduction discounts to loyal members at annual renewal of their policies.

It is very important to us that our members' rights are protected. We have therefore sought to respond to the Competition Commission's proposed remedies in a manner that balances the need to keep insurance premiums at acceptable levels with the individual rights of our members should they be involved in an accident.

Executive Summary

We believe that the Competition Commission (CC) and Office of Fair Trading (OFT) have correctly identified the issues that, in combination, lead to the adverse effects on competition (AEC) in the private motor insurance (PMI) market.

We support the general approach to the issues and are keen to see a framework of measures that delivers a sea change in the consumer's perceptions of the motor claims industry as a whole. This can only arise through a significant change in behaviours of the participants in the industry. The impact of the combination of the proposed remedies on individual premiums is not likely to be of material value to the consumer.

The remedies could be seen by the consumer as too internally focused and too full of 'small print' leaving the consumer thinking that nothing has really changed.

To achieve an industry wide commitment to a change in behaviours towards consumers is a challenge but we believe it to be the most important outcome this enquiry could deliver. It starts with an obligation to observe some fundamental principles.

NFUM Approach to the Proposed Remedies

Our Chief Claims Manager, Matthew Scott, has set out our position, which forms the foundation on which our response to the claims remedies is put, as follows:

'We strongly believe that the emphasis should be on removing cost to the consumer and creating a level playing field, both for the competition between insurers and for the consumer experience, regardless of whether or not a policy holder is the at-fault driver in any given situation. This is how we have always operated at NFU Mutual. We approach all claims alike, regardless of whether or not they are fault claims. We do not seek to derive a revenue stream from claims where our members are not at-fault and the cost will be paid for by our competitors.'

We support the implementation of the majority of the proposed claims remedies A to 2A, with modifications, within a fundamental principles framework to aid the practical impact and implementation in a way that provides the consumer with a service that meets their needs at a cost that the consumer is prepared to pay in premium terms which is proportionate to the level of AEC.

We also support measures 4A to 4C and the broad thrust of 5A even though we do not distribute our products via price comparison websites. Our firm view is that PCWs should be obliged to more clearly explain insurer's terms, conditions, fees and claims handling to ensure that the consumer makes an informed choice on a range of factors beyond just price.

A We support A. We accept the need for greater clarity in policy documents and on websites but believe that the most effective time to give the consumer information about the claims process is at the point of notification of a claim when they are engaged and the advice can be bespoke to their individual circumstances.

1A We support 1st Party insurance of mobility without recoverability with the proviso that the practical and legislative issues with the loss of recoverability are satisfactorily resolved across the entire motor claims market and under EU legislation. Should it not prove possible to meet the proviso we would support the 1st party approach even if recoverability remained provided that there were sufficient safeguards and controls on costs under remedies 1C, 1D and 1E. We already provide our customers with a limited element of 1st party mobility benefit where their vehicle is repaired in our approved repairer network or is a total loss and the damage is covered under their policy and we do not seek to recover the cost.

1B We are not in favour of giving the at fault insurer control because we market our products to our customers on enhanced levels of service not generally provided in the PMI as well as cost and it would be to their detriment not to receive the service which they had paid a premium for. We are supportive of improvements in the quality of service provision via TP capture and enhanced 'Bump Card' for greater consumer understanding at immediate point of incident should 1A be implemented with recoverability, even as an interim measure.

1C We are in favour of tighter control of mobility costs than is currently provided by the ABI GTA or the legal framework.

1D We prefer the net wholesale approach to all motor claim repair costs subrogation with wholesale very strictly defined to ensure that all costs sought by insurers are the absolute net cost incurred after the deduction of all financial benefits to the subrogating insurer. We are not in favour of the standardised costs approach for subrogation. Our vehicle repair cost control approach has none of the features that have been identified as leading to the AEC. In contrast we do see evidence of those adverse features in some subrogated claims made against our policyholders. The repair cost AECs that you have highlighted are within the law, being supported by current legislation and the views of the courts as expressed in cases such as Bee v Jenson and, more recently, Coles v Hetherington.

1E We support moves to reduce the costs incurred in the handling of total losses and salvage. We are not in favour of the transfer of salvage handling between insurers. We believe that the subrogation of total loss claims should be on a strictly defined net wholesale basis. Our total loss cost control approach has none of the features that have been identified as leading to the AEC. In contrast we do see evidence of those adverse features in some subrogated claims made against our policyholders. Similarly the total loss and salvage management AECs that you have highlighted enjoy the same legislative and court support.

1F We support the more effective assessment of consumer need as part of the package of remedies.

1G We support the complete ban on referral fees however they are described. The recent experience of the personal injury claims market, where there is some evidence that the measures introduced have not delivered the desired outcome, must be taken into account in the design of any regime in the general claims market.

2A We support the general proposition that repair quality and safety are key issues for consumers and that the insurance market has a role to play together with the motor repair industry to provide enhanced consumer reassurance. We believe that our regime already delivers that for our customers.

4A We support the clearer identification and transparency of the cost of add-ons by all distribution channels not just PCWs.

4B We support the clearer description of NCB protection to aid consumer understanding.

4C We support the clearer description of add-ons but believe that there is little evidence that our customers currently suffer any detriment.

5A In the wider consumer interest we support this proposed remedy.

The proposed remedies must apply in the jurisdictions of England and Wales, Northern Ireland and Scotland whether introduced under legislation or EO.

The broad principles behind the remedies should apply to the entire motor claims market and not be restricted to the private car market. It would not serve the consumer or industry well for the intention of the remedies not to apply where a consumer's vehicle is damaged under other covers such as public liability for example.

In addition we believe that insurers should resolve disputes with other insurers by dialogue, with litigation only used as a last resort. Where litigation is the only route for a consumer to resolve a dispute over uninsured losses, insurers should ensure that their losses are not included in the litigation and agree that they will follow any decisions reached in the uninsured loss claim.

We also advocate the development of an electronic portal for all communications/liability/quantum resolution within the insurance claims industry which could sit alongside the Ministry of Justice Personal Injury claims portal or be incorporated into it.

Fundamental Principles

All market participants must be required to sign up to the Fundamental Principles set out below as a pre condition to being permitted to operate in the motor claims market.

It is in the best interests of insurance consumers that their needs following an incident are appropriately met (whether under their own policy cover or under tort law) at the most reasonable cost possible commensurate with the meeting of their need.

1. All options together with their costs consequences must be fully explained to a claimant before any decisions are made, with the claimant's active participation, which might affect either their policy entitlement or legal rights against another negligent party.
2. All claims handling solutions (repair, write off and mobility) must be provided on the basis of claimant need alone subject to the limits of policy cover or the law, whichever provides the most cost effective solution for the claimant.
3. Repairs are carried out to vehicles in a safe and proper manner consistent with repair industry standards.
4. Written off vehicles are valued in a consistent and fair way applying the principles laid down by the Financial Ombudsman Service as a minimum.

It is in the best interests of motor insurers and participants in the motor insurance claims market that:

1. All participants in the market adopt the highest ethical standards and behaviours that serve to enhance the reputation of the market with the consumer, industry regulators and the government.
2. All consumers of insurance products and services are treated fairly and in accordance with their specific needs subject to the limits of their policy cover or the law, whichever provides the most effective solution for the consumer.
3. Claims indemnity costs are properly managed for the benefit of the premium paying public.
4. All costs incurred are clear, visible, and available for proper scrutiny.
5. There should be no difference in the handling of a claimant's vehicle damage claim based on fault. Fault and non-fault should be treated in the same way.

General

We fully support the involvement of the Competition Commission and Office of Fair Trading and are committed to working with industry bodies to implement reforms that deliver a better outcome for consumers generally.

We believe that the remedies which you propose have some practical difficulties to overcome before they could be implemented as workable solutions. Notwithstanding those difficulties we accept that the market collectively has serious issues that need to be addressed.

We believe that all the remedies have elements of merit but are complicated and would be difficult for the consumer to understand. No single remedy on its own will achieve the objective of removing the AECs which have been properly identified. The consumer interest will be best served by a package of remedies. All the measures will have objectors where their business model is predicated on the continuation of the AEC and they are likely to seek ways to frustrate the intention of any EO or future legislative change.

As a market participant we envisage that they will be difficult and costly to implement with little overall impact on the premium the consumer pays based on your estimate of the overall detriment to consumers of £150 - £200 million per year, equivalent to £6 - £8 per policy. The level of consumer detriment that you have identified should be clearly set in context against the annual value of the industry estimated at £14,000M.

We do not operate via PCW sites. Our general position is that any measures that ensure more open and effective competition in the PMI market, whether by PCW or other distribution channels, is likely to be beneficial for the consumer. PCWs primarily appeal to consumers making purchasing decisions based on price alone. We would urge the CC to consider requiring the PCWs to include features such as terms, conditions, fee structures and claims handing to help the consumer make a more informed choice. To help the consumer make an informed choice we believe that PCWs should clearly identify their relationship with the insurers they promote or recommend especially in the areas of ownership and fees that they receive.

Comment on the individual Remedies (by Paragraph number)

Remedy	Description
A	**Measures to improve claimants' understanding of their legal entitlements**
17.	The consumer should always be offered, and is most likely to accept, the best outcome according to their needs whether under their policy entitlement or tort law.
18.	There is a fundamental conflict between the consumer's need for advice at the point of FNOL and their chosen reporting channel's authority to provide it where there is a legal remedy as opposed to a policy liability remedy. Applying the regulations strictly there is likely to be a 'qualification' issue for the vast majority of claims FNOL services who should not be providing legal advice. Notwithstanding that conflict, consumers are currently routinely asking for and receiving such advice from all areas of the insurance claims market and claims handlers apply the legal framework in their handling of third party claims made against their policyholders. The conflict raises technical issues but not necessarily practical issues.
18.(a)	This will be complicated by 1st party cover variations and should include split liability situations. It will need to be at an individual insurer level to accommodate variations in repair and replacement car arrangements for each insurer and should be provided now on a bespoke basis to each claimant as part of the first notification and claims handling process.
18.(b)	This would need to be at individual insurer level unless there was market wide agreement to waive excesses and allow NCB at notification in clear cut cases. There is no industry standard but a growing tendency to waive excesses which would be broadly welcomed by consumers.
18.(c)	We believe that a consumer always has the right to choose their own repairer. Whether they have to pay an excess or enhanced excess for not choosing the insurer's approved repairer is a matter for individual insurers. We do not operate with differential excesses except where glass replacement is concerned.
18.(d)	Whilst we understand the inclusion of this element, it is complicated by the various positions of claimants (policyholder, third party; whether the insurer or claimant has selected the repairer).
19.	The principle responsibility must lie with motor insurers.
20.	We are in favour of any measure which leads to a greater consumer knowledge and understanding of the role that the proper management of claim cost plays in maintaining premiums at more affordable levels. The industry has no control over this area and we doubt that it would provide much if any real benefit.

21.(a) As set out in 18 and the comments above. The information should include the potential costs consequences and provide direction to sources of more detailed information such as their insurer, broker, CMC, uninsured loss service provider, solicitor etc. There is a certain amount of information that insurers are required to provide to consumers at the point of sale covered by FCA rules. There should be an emphasis on providing much clearer information rather than simply more information.

21.(b) It should be included in policy wordings and at first notification of loss – in a dynamic bespoke form if liability is clear cut. It should also be provided on insurer and consumer websites including the ABI and all market participants. Many insurer websites already include this information in relation to their own policyholders and it would be relatively simple to make changes to websites to incorporate the information.

21.(c) A general insurer statement of consumer rights in simple form would greatly assist consumer understanding. Whilst the ABI could produce and update such a statement it would not be seen as independent by consumers as they could only speak for their insurer members. It would be more appropriate for this to be produced by an independent body with the support of the consumer such as Which? The detailed elements would need to be provided by insurers where they provided a more bespoke offering.

21.(d) Claimant behaviours would be changed and decision made on a more informed basis. The detailed impacts are hard to assess.

21.(e) Business models that seek to engineer particular income generating outcomes might find ways to circumvent the purpose of the remedy whilst complying with the letter.

21.(f) Regulation and monitoring of this remedy would be hard to establish and practically difficult and expensive to deliver since the majority of incidents are reported by telephone. In theory it could be included within the FCA, TCF, and internal audit frameworks routinely carried out within the insurer community. The monitoring of the broker and CMC communities could be similarly included within their regulatory regime. It is difficult to know how effective that would be in ensuring compliance with this remedy and delivering enhanced consumer awareness.

21.(g) The cost of this remedy lies in the length of time and the coordination of input required to agree the wordings of the information to be published to consumers. It seems unlikely that it could be achieved without lawyer input and scrutiny.

There is a significant caveat here in the sense that this is not a task that any insurer would want to keep revisiting and needs to wait for the outcome of all the other remedies to be clearly defined and established. Within our own organisation it would take at least twelve months to achieve once the wordings had been agreed and incur considerable costs in terms of additional printed matter etc. We see no evidence of customer detriment in our own business as a result of this and believe that we might be required to incur costs with little or no benefit to our customers.

21.(h) No

21.(i) Yes. We believe that a comprehensive package of the proposed remedies would be most likely to deliver the best outcome for consumers and the motor insurance industry.

21.(j) Yes but with limited if any impact.

Theory of Harm 1 – Separation of cost liability and cost control

28.(a) Yes. We believe that a comprehensive package of the proposed remedies would be most likely to deliver the best outcome for consumers and the motor insurance industry. We believe that the final solution should include elements of all the proposed remedies.

28.(b) The package of remedies would of necessity require legislative change only achievable through primary government legislation. Where the remedies could be achieved by EO, such as measures to improve claimants' understanding of their legal rights, they should not be held back by the legislative timetable.

Remedy **Description**

1A **First Party insurance for replacement cars**

29. This would deliver the first compulsory insurance outside the current focus on protection of the rights of third parties (Employers Liability and RTA) and would force consumers to insure for mobility. To be an effective remedy it would need to be mandatory for all consumers, apply regardless of the level of cover on the insured vehicle and would be likely to need 'escape' clauses to secure legislative approval notwithstanding the inherent difficulties in the legislative approach. To effectively meet the AEC and protect the consumer, the remedy would need to apply to all other motor markets (e.g. Commercial Motor, Fleet) beyond PMI and also non comprehensive covers.

This remedy creates an 'Add On' that would need to be considered under ToH 4 to ensure adequate consumer protection from the AEC identified in that area.

30. There would need to be very clear guidelines to protect the consumer against the risks of mis-selling of the cover. There would need to be a framework to ensure that the consumer had made a properly informed decision.

32. This effectively makes Credit Hire a dead model for all but the 'escape clause' cases referred to above and is contradictory to your comments at paragraph 69.

33. We believe that this remedy might also attract consumer opposition given the 'forced insurance' provision and the removal of the right to recover their mobility costs. The consumer is likely to be supported by the credit hire industry.

34.(a) The RTA would need to require consumers to insure their mobility needs in the event of an incident and also remove their right to recover their mobility costs from a negligent party. Similar changes would be needed to EU Directives to remove the right to recovery of mobility costs where accidents occur 'abroad' or between UK citizens and EU nationals.

34.(b) There is a clear conflict between the rights of the consumer to choose and the interests of the industry to have a system that is workable and practically achievable at an acceptable cost to the consumer. These two competing interests need to be carefully balanced to achieve the outcome in such a way as to remove any suggestion of mis-selling.

34.(c) This remedy would be likely to see a small change in premiums as the reduction in costs of third party mobility claims as a result of non recoverability would be offset by an increase for all consumers to cover their mobility requirement. Further detailed work would be required to assess the average impact across the market but it is likely to be small in the context of the overall size of the PMI market. There is a very real risk that there would be a large number of consumers, especially those who purchase insurance based solely on price - often with older vehicles and non comprehensive cover, who would opt not to have any mobility cover for whom this remedy would not deliver a solution to their needs.

34.(d) Unless the remedy were to be prescriptively set out this would be left to the individual insurers to determine their offerings and whether excesses applied and the consequences for NCB. From a consumer perspective it would be sensible to treat mobility claims as not affecting NCB and for no excess to apply. Insurers would benefit from the excess not being an element in an uninsured loss claim – indeed possibly the only element – being made against their policyholder. We believe that the consumer should be provided with a like for like vehicle without an excess and with mobility claims not affecting NCB.

34.(e) The credit hire providers would be likely to oppose this measure unless they were able to change and adopt a direct hire or insurer market supplier role. Both might be difficult to achieve given historic positions adopted by insurers and credit hire providers. There is a potential for credit hire providers to argue that this remedy would be anti competitive in itself as it effectively 'kills' the credit hire business model.

34.(f) It is more likely than not that a non fault insurer handling the replacement vehicle would also handle the repair of the non fault claimant's vehicle. Non fault insurers would prefer to retain the service provision to their own customer/consumer to retain costs control over both elements (vehicle damage and mobility) as well as remove the opportunity for the at fault insurer to develop a relationship with their customer so as to compete for their business at their next renewal.

Complexities and costs could arise if the mobility and vehicle damage needs are met by different service providers as they need to be coordinated (requiring significant monitoring and communication between the parties) to balance the competing costs controls that apply in the two areas.

34.(g) Where the two elements remain under the control of one party there should be no distortion or unintended consequences. Where the elements are split there could be conflicting interests that might favour one over the other. For example there would be little incentive for the at fault insurer to control the duration of the repair with the consequence of that being a longer period of mobility hire and increased costs for the non fault insurer. There are significant potential impacts on the entire UK vehicle hire market which may not have sufficient capacity to meet the need that would arise under this remedy. In addition there is a risk that the industry costs models may be significantly shifted by the change to 1st party mobility provision where rates might rise to counter their loss of profit from the credit hire elements of their operations that would be reduced as a result of this remedy. It is desirable for the remedy to apply across all motor products rather than private motor alone. This presents issues since there is no equivalent mobility provision route for other classes of motor insurance rendering it difficult to mandate 1st party provision. Equally there may be no consumer demand beyond the private car. The removal of subrogation rights in these areas would leave many claimants with a significant financial loss.

34.(h) This remedy would take a significant time to implement due to the need for legislative change. See 34.(a) above. Administrative changes would be required to offer the mobility product, and monitor and manage the claim lifecycle across all the industry participants.

34.(i) The ABI GTA would need to be set aside. Costs control measures as set out in 1C but also 1D and 1E (to manage length of hire) would also be required to manage the costs actually incurred under the mobility heading.

1B **At-fault insurers to be given first option to handle non-fault claims**

36. We agree that there would be a greater constraint on non-fault insurers and other parties but question whether it would be sufficient to remove the identified AEC.

37. 'Limited period of time' would need to be very carefully defined to ensure that the interests of the parties are balanced. It would need to be flexible and weighted in favour of the non-fault claimant.

38. Insurers would be reluctant to cede control of the non-fault claim to an agent, CMC or broker. The non-fault insurer would not wish to relinquish its opportunity to deliver its service offering to its customer. We market our products to our member customers on enhanced levels of service not generally provided in the PMI as well as cost and it would be to their detriment not to receive that service from their chosen brand especially when they had paid a premium precisely to receive that service. A non fault insurer would have inherent difficulties in ensuring that service standards are met, regulations complied with or that costs are effectively managed should liability be resolved against their policyholder. Provided that the various options and their associated costs have been fully explained to the non-fault customer they should be able to make an informed choice.

39. We believe that the removal of consumer choice would be opposed by consumer organisations and would not receive legislative approval in any event. The risk of under provision is unlikely to materialise.

40. The options set out under this paragraph do not effectively deal with the AEC since our view is that remedy 1F is unlikely to be effective in resolving mitigation arguments. The infrastructure required to achieve the level of communication and sharing of data between the various parties that could be involved is significant and currently not in place. It also removes the consumer's choice of service provider which we believe is unlikely to happen.

41. This option has many of the issues as set out under paragraph 40 above with the additional restriction on the right of the claimant to recover any more than the at fault insurers daily hire rate. This approach contradicts current case law and we believe would require legislation to allow implementation. Whilst we are supportive of the general approach of limiting recovery by the non-fault insurer or claimant of the costs that would have been incurred by the at fault insurer in providing the mobility and/or vehicle damage needs of the non-fault claimant, that position is not endorsed by the Court of Appeal following the decision in Coles v Hetherington. It is also not followed in the other costs control remedies at 1C, 1D or 1E.

42. Due to the loss of consumer choice involved in paragraph 41 we do not believe it could be achieved by an EO and would require legislative change.

43.(a)(i) The at fault insurer would have to meet the claimant need more effectively but there would be little incentive for a claimant to choose the at fault insurer in a much more cooperative insurance claims environment with fault and non-fault insurers working together with common aims to meet need. Claimants are more likely to prefer their own insurer than a brand that they have no relationship with. Where a claimant is persuaded to allow the at fault insurer to handle their claim it is likely to be with insurers who have strong service brands regardless of size.

43.(a)(ii) The question is put in such a way as to infer that at fault insurers do not meet their legal obligations to provide the standard of service to which a claimant is entitled. Dissatisfied claimants ultimately have the protection of the courts. Further safeguards could be put in place through the extension of the scope of current policyholder protection measures (FCA, FOS, TCF, compensation regimes etc.) to include third parties i.e. by extending the same rights to third party claimants where they are captured by an at fault insurer.

43.(b) Provided that the 'alternative service provider' was a competent body capable of complying with regulatory requirements, able to make a proper assessment of claimant need, delivered appropriate service with cost control and communicated effectively with the at fault insurer then no issues would arise. If they did arise then the claimant's only route to redress would be with their alternative service provider. It would be important for the potential consequences of their choice of an alternative service provider to be clear and for the decision to be an informed one.

43.(c) There is a balance between giving the at fault insurer time to make a decision and meeting any immediate need of a non-fault claimant. An at fault insurer may not have a report of the incident or be able to contact their policyholder to establish the circumstances or reach a conclusion on liability. The ultimate control of the decision must rest with the non-fault claimant in deciding how best to meet their needs.

43.(d) Provided that a claimant can demonstrate that their decision was reasonable in their particular circumstances there should be no reason why non-fault claimants should be required to wait for an offer from the at fault insurer. The at fault insurer should not be penalised either and the claimant and their chosen claims handler should be required to follow the cost control measures set out in other remedies.

43.(e) There is significantly more variation in mobility costs and a broader range given the variation in daily rates and the difficulties at fault insurers face where they are unable to control the duration of the mobility provision. The majority of vehicle damage claims on the other hand fall into a much narrower range with the average being of the order of £1,250. At fault insurers given a choice would prefer to be able to control the mobility costs if they are recoverable.

43.(f) Where the at fault insurer had control of the non-fault claim and handled it well they would be in a better position to tempt the claimant to consider them at next renewal which may lead to greater churn. Since most insurers currently attempt to capture non-fault claimants this risk would only be marginally increased and is not significant.

43.(g) The risk identified above is not easily mitigated but since it is small most insurers would probably accept it as falling comfortably within their risk appetite.

43.(h) Monitoring of this remedy presents significant issues since any regime that relied on audits would be resource hungry and have costs likely to exceed any financial benefit that the remedy could deliver. Monitoring of all the implemented remedies needs to be achieved and since many of the proposed remedies are fundamentally behavioural in nature they are difficult to monitor. The simplest and most cost effective route would be to incorporate all the remedies and monitoring requirements into an electronic environment which would be designed to enforce behaviours, provide the assurance of compliance together with MI and integrated reporting which should be published.

43.(i) Since most insurers already undertake non-fault claimant capture it is a question of scaling up rather than establishment. However the more significant time to implement would be in designing, agreeing and building a monitoring and compliance environment. IT costs would be significant for an electronic portal type arrangement.

1C **Measures to control the cost of providing replacement cars to non-fault claimants**

45.(a) It is difficult to envisage the guidance and effective enforcement proposed in relation to hire periods.

45.(b) We fully support a cap on daily hire rates and believe that it should be attractive to the majority of insurers provided it is set at rates that reflect the levels that they are able to achieve with their suppliers. There is likely to be significant resistance to this from the credit hire providers and possibly consumer groups as it would represent a restriction in choice of provider and a denial of their current right to determine quantum through the courts. The mechanism for setting the rates and the annual review could take considerable time to develop as could the formation and management of the independent body to carry out the rate setting function. The remedy effectively amounts to an abandonment of the current GTA and its replacement with a more robust GTA2.

45.(c) Administrative costs are not defined and in any event are a cost of doing business and not something that should be built into any remedy in this or any other area.

46. Any portal needs to have a much broader remit and cover all the remedies rather than any individual element such as mobility.

48.(a) There is no need for further judicial guidance as there is sufficient case law to enable market participants to reach their own conclusions. It is difficult to see how the judiciary could be compelled to issue guidance. Whilst the EO route appears attractive there remains a need for a revised GTA style protocol and this route would provide the greater opportunity for the participants to work together to create it with explicit permission from the Competition Commission.

48.(b) There is no reason why all parties should not be covered by this remedy regardless of their role in the market as they should all be focused on meeting the claimant need whilst managing that cost for the benefit of all consumers.

48.(c) There is no reason in the vast majority of cases why repairs should not start immediately. Where claimants are put into credit hire it is on the basis of a liability assessment made by the credit hire operators and there is no reason why this should not be applied to the issue of repairs. The duty to mitigate loss should be applied to the claim as a whole as well as to the individual elements. Monitoring should be carried out by the at fault insurer in conjunction with the repairer to ensure that it is effective in achieving cost control and avoiding extended hire as a result of issues with the repair.

48.(d) The first step is to establish the independent body that could then develop the rate setting method. Rates could then be put forward and ratified by the relevant authorities.

48.(e) If administrative costs are to be allowed then they should be capped at a nominal level especially if the administration is to be carried out largely via an electronic portal. In terms of value they should be no more than the nominal expenses awarded to claimants by the courts.

48.(f) The majority of participants in the market are already exchanging documents electronically by email or into proprietary independent software as part of management of credit hire claims under the GTA. Development and use of a portal to assist, monitor and manage the process should follow any remedy in this area and be part of a wider use of portals to manage all remedies resulting from this CC review.

48.(g) There would be costs in establishing the independent body as well as portal development costs. In the absence of a portal there would be monitoring costs.

48.(h) An effective mobility remedy and supporting portal might reduce the opportunities for fraud that are seen particularly in the non GTA area of credit hire.

48.(i) The need for all participants in the industry to be subject to the remedy regardless of business model is essential.

1D Measures to control non-fault repair costs

49. We believe that the aim of this remedy should be to remove any dispute between insurers over subrogated repair costs save in the most exceptional circumstances. Lower claims would reduce frictional costs as the number of disputed cases where it would be economically worthwhile to engage in a formal dispute resolution process could be virtually nil. It is not in the interests of insurers to engage in litigation to resolve internal disputes over vehicle repairs where the MOU should be applied. Litigation should be the final resort once all other routes have been exhausted.

Litigation may be the only route for consumers to resolve liability disputes where uninsured losses are involved.

50. We see no justification for the inclusion of an administration charge. The costs of running recovery functions is an integral part of running an insurance business and should not be separated out or recoverable. This feature of the remedy would be highlighted by the consumer lobby as another example of the industry failing to recognise that they have a serious image problem.

51. We believe that there is no more effective approach to the issue than to operate on a true net wholesale basis. There is no place for inflated bills, administration charges or referral fees – none of which serve the wider consumer interest and damage the reputation and image of the industry. Our vehicle repair cost control approach has none of the features that have been identified as leading to the AEC. In contrast we do see evidence of those adverse features in some subrogated claims made against our policyholders. The repair cost AECs are within the law being supported by current legislation and the views of the courts as expressed in cases such as Bee v Jenson and, more recently, Coles v Hetherington.

52. We do not support the standardized repair costs approach for subrogated claims but recognise that it would remove disputes and frictional costs provided that the solution provided sufficient granularity to cover the majority of vehicles (make/model) and repair scenarios. The granularity must include and deal with the range of repair options available to consumers from independent non networked businesses, insurer approved repairer networks, vertically integrated insurer owned and manufacturer facilities. It may leave a small number of exception cases that would need specialist engineering expertise to resolve, ideally within a more cooperative insurer to insurer environment. The current situation favours larger insurers as their bargaining power allows them to obtain better terms from repairers whilst the law permits them to recover more than their actual incurred costs. This remedy might see that margin reduced but would not remove the AEC in its entirety.

53. This element of the remedy would require considerable care to ensure that cost estimation system selection, control, monitoring and review were properly managed by an independent body. The issue is analogous to the daily rate body envisaged in remedy 1C. Perhaps one body could undertake the various roles in the areas of daily rates, repairs and write off costs management.

54. A standardized costs matrix would remove the wide level of variation in costs models currently used by the industry which lead to tensions and frictional costs in subrogated claims. A larger insurer with greater bargaining power or more effective cost management controls would be likely to profit at the expense of smaller insurer (on bargaining power alone) which would allow them to retain an element of competitive advantage but at the expense of the at fault consumer.

55.(a) Imposition of a standardized costs matrix by EO monitored and controlled by audit under existing FCA and other regulatory bodies as appropriate.

55.(b) Standardized costs could lead to manipulation of outcomes by non-fault insurers to avoid being restricted to the standardized costs where it was less than their actual costs, for example by settling on a cash in lieu or total loss basis. This could be mitigated by a corresponding control in the write off remedy, 1E. Repair costs would be likely to rise where repairer's costs were lower than the standard level as they become aware of the standardized levels. Insurers with high volume repairers would be favoured over those using low volume repairers. The high volume repairer/insurer would be able to command lower labour rates and higher levels of paint/parts discounts etc. and thereby build in a profit against the standardized cost. This would unfairly penalise the low volume participants in the market as currently is the case. See 54 above.

55.(c) This area is notoriously difficult to manage and is achieved through a balance between what insurers are prepared to pay and the level of costs required by a repairer to sustain a viable business. This measure could distort that balance leading to a general increase in repair costs across the entire industry.

55.(d) Where insurers have vertically integrated it is virtually impossible to identify their base wholesale position as they retain their true cost structures behind a 'curtain'. To remedy this issue the CC would need to deal with the issues argued in the courts in the case of Bee v Jenson.

55.(e) Yes, on all but the most complicated of situations which could be handled by exception. Engineering expertise would be required to do the technical analysis of the repair documentation to verify the costs in the exception cases. The exception cases might include certain prestige marques and manufacturers.

55.(f) Estimating systems would be vital in determining standard costs. Further input would be required from bodies such as Thatcham and the National Association of Bodyshops to assist with labour, paint and parts pricing and discount structures as well as PAS 125 accreditation schemes to ensure that standardized costs took account of the repair standards required to satisfy consumer needs.

55.(g) The costs of this remedy would be the setting of the standardized rates and their subsequent review and management. In the same way as the mobility remedy required an independent body to set the daily hire rates, this area would benefit from a similar body.

55.(h) Under an EO it would be self policing as it would not change the cost control arrangements between the insurer and the repairer, only the limit recoverable under subrogation between insurers.

55.(i) Thatcham is the most obvious choice as it represents insurers and repair industry and is a respected and authoritative body with a long history in this area. Wider representation from specific industry bodies such as the National Association of Bodyshops for example would provide added balance and help to deliver a costs regime acceptable to all.

55.(j) There can be no room for compromise on quality of repair, especially where safety is a factor, and all industry participants must be required to acknowledge and accept that as a basic premise. The arrangements proposed under remedy 2A should be developed in conjunction with remedy 1D to ensure that there are adequate controls in this area.

1E Measures to control non-fault write-off costs

56. The cost control issues in this area arise as a result of the different salvage disposal models operated by insurers. The number of salvage outlets in the UK motor insurance market is not great and they operate the various models as required by their insurer clients. The principle difference is between models that apply a value matrix depending on salvage category and pre accident value and others where all the separate disposal cost elements are identified and deducted from the actual salvage sales proceeds. Whilst these two approaches should arrive at very similar outcomes they often favour the separate disposal costs method. It seems unlikely that there would be any market appetite for a single unified approach to the handling of salvage costs and disposal proceeds although it would remove the present friction in this area. It would ideally be accompanied by an agreed or standardized costs approach as suggested under 1D to remove the frictional costs of disputes in this area. Our total loss cost control approach has none of the features that have been identified as leading to the AEC. In contrast we do see evidence of those adverse features in some subrogated claims made against our policyholders. The total loss and salvage management AECs enjoy the same legislative and court support as apply to vehicle repair costs.

57.(a) The remedy options do not rule out the possibility of differential handling for fault and non-fault situations which would need to be addressed to prevent insurers from applying a matrix approach to fault and an individual elements approach to non fault. The non-fault insurer or claims handling agency selected by the non-fault claimant under remedy 1B could leave a vehicle in costly storage rather than move it to free storage simply to ensure that the cost to the at fault insurer is inflated. It is unlikely that there would be any desire on the part of fault insurers to deal with the non-fault salvage. It could involve multiple handling of the vehicle remains by the respective insurer salvage agents, the transfer of recovery, towing and storage charges and additional hand offs all of which would add unnecessary cost.

57.(b) No as the process would be difficult and costly to administer operationally and likely to increase salvage disposal costs and overall claims indemnity costs to the disadvantage of the at fault insurer and the wider consumer. See 57.(a) above.

57.(c) It could only be effective if the at fault insurer deals with the non-fault vehicle damage claim from the point of first notification. Once the non-fault insurer has arranged the uplift of the vehicle into their own salvage service provider the option should not be open to the at fault insurer. Transfer of the salvage element between insurers could lead to entries to the Motor Insurers Anti Fraud and Theft Register (MIAFTR) being overlooked, falling between two insurers, or delayed with the potential to increase fraud. In consequence there would be a corresponding delay in notifying DVLA of the condition of a vehicle.

57.(d) The current salvage market is dominated by a small number of 'dealers' who manage the disposal of the salvage to a large number of global buyers via on line auction portals. Since these 'dealers' already operate a variety of models across the motor insurance market it is unlikely that there would be any significant impact on them or the ultimate buyers. There would be no reduction in the desire of insurers to realise the maximum possible value for salvage under their control as it directly goes to the bottom line and is an important component of indemnity spend. There is little incentive for any insurer to want to operate on an estimate basis adjusted for actual costs/receipts at a later date in place of using actual values and completing the administration in one transaction.

The reference in this remedy to a referral fee is inappropriate: it is not a cost that has any place in the handling of salvage.

57.(e) The adjustment mechanism only serves to add costs and is therefore not likely to be supported by any insurers or their salvage partners. The evidence that would be required in any subrogated salvage case would include documentary evidence to support all costs and receipts i.e. invoices as would have to be provided in the event of proceedings. The only additional feature would be the auction costs c.f. a seller's premium in a conventional auction situation.

1F **Improved mitigation in relation to the provision of replacement cars to non-fault claimants**

58. Claimant need is paramount but difficult to establish with any certainty and easily engineered where it is dealt with by those representing the non fault claimant. It is very difficult and costly for non fault insurer to challenge especially under current ABI GTA where credit hire providers achieve need mitigation statements by default.

61.(a) Yes it could operate on a stand alone basis but is of questionable effectiveness. The cost of challenging a mitigation statement in all but the highest value mobility cases - which the other remedies would seek to remove in any event - would be prohibitive making challenges unlikely to be pursued by an at fault insurer.

61.(b) Remedies A, 1A/1B and 1C would benefit from this remedy as a supporting measure.

61.(c) The proper establishment of need is essential since that is the basis on which the legal framework in this area operates. There should be a standard set of questions that could be derived from those insurers with best practice non fault claimant capture functions, moderated by input from other interested parties. This would still leave room for argument between non fault claimant and at fault insurer. There is evidence that, for a significant number of claimants, a basic mobility provision is adequate to meet their needs. For non fault claimants a presumption in favour of a like for like provision would simplify administration for insurers and always meet or exceed need. Mobility cover provided by a non fault claimant's own insurance should not, and could not, be taken as evidence of their need for, or limit their entitlement to mobility. It should be argued and assumed that a claimant who has mobility cover under their own policy and does not use it has failed to mitigate their loss. To avoid the possibility of arguments over interpretation it would be helpful for the CC to incorporate this as a rule in their EO or legislative recommendation. There is no provision to deal with situations where the consumer need changes during the period of need –for either a higher or lower specification vehicle.

61.(d) The proposed call recording solution would not be self enforcing. Call recording is not universal across the relevant sectors of the industry and could not be imposed. Accessing call records where they exist is time consuming and costly. There would be data protection issues in giving access to the call record which would require the permission of the claimant and the call handler for voluntary disclosure. Without explicit permission there would have to be a formal application for non party disclosure.

61.(e) We do not have call recording in our general claims handling area and would incur significant cost installing it. There would then be significant cost in managing the requests for recordings. In short it would appear not to be a cost effective remedy as the potential savings from mitigation arguments successfully won would be more than offset by set up and maintenance costs.

61.(f) Yes – see comments under paragraphs 58 and 61(a) above. As a non fault claimant it would be a simple matter to ensure virtually any like for like mobility solution for a reasonable period would simply be paid as presented by the at fault insurer regardless of the true underlying need.

1G Prohibition of referral fees

64.(a) Yes it could operate on a stand alone basis. Our view is straightforward and would see all referral fees banned in all areas of the insurance market not just private motor claims. Any ban should cover both the payment and receipt of referral fees. However an outright ban would be hard to achieve in practice as the costs might simply be re-branded under another name.

64.(b) All the other remedies would benefit from a ban on referral fees since they are a feature of the cost of each element that the remedies are designed to address and reduce so that those reductions can be passed back to the consumer in reduced premiums.

64.(c) Overall claims costs should be reduced by an effective ban on referral fees and premiums should consequently also fall. The amount of the reduction in premiums would be relatively small given the overall estimate of the customer detriment of the identified AECs.

64.(d) There are a number of participants in the market for whom the referral fee is an essential element of their business model. They might seek ways of ensuring that their income stream is maintained and are usually adept at finding new opportunities. Those who would oppose a ban have already had some experience from dealing with the issue in the personal injury area. Vertical integration and the creation of ABS organisations, both of which are valid and lawful business models, would be two routes to masking activities behind virtually impenetrable barriers. Any remedy would need to deal with this aspect. See 55(d).

64.(e) Circumvention risks could be mitigated by enforced disclosure of all financial transactions, rigorous audit by regulatory bodies such as the FCA or by a strictly controlled mandatory portal arrangement across the entire industry. The experience of the ban and its monitoring and management from the personal injury arena should be taken into account in the design and implementation of any regime in this area.

64.(f) The costs of a standalone monitoring regime would be prohibitive and resource hungry unless provided by some form of electronic portal with automated monitoring and control measures built in to manage behaviours.

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

Remedy	Description
2A	**Compulsory audits of the quality of vehicle repairs**
78.(a)	Whilst we have seen the output from MSX and are supportive of a general move by the industry towards improved quality standards and monitoring through an audit regime, we do not accept that the conclusions drawn by MSX apply to NFU Mutual. We have no evidence that there is a significant volume of customer complaints or that there is any customer detriment. Our regime already involves quality audits of repair standards within our approved repairer network and these are undertaken by our own staff engineers at a cost equivalent to a standard repair inspection. To carry out a 5% sample we estimate would cost in the region of £75,000 per annum and would deliver little benefit if any to our customers. For insurers without their own staff engineer force there would be a higher cost involved in utilising independent engineers.
78.(b)	Repair quality frequency would be determined by the number of audits required to demonstrate to consumers that repairs are carried out satisfactorily and to a high standard. A 3% - 5% sample size would provide that assurance. Across the industry as a whole it would represent a significant extra cost in human resources.
78.(c)	Audits should be carried out by competent engineering expertise to ensure that the results and output are credible and meet consumer expectation. CMCs and insurers without their own engineering staff are unlikely to have that expertise. Audits should be standardised – but not gold plated- whether carried out by an independent body or not to ensure consistency across the industry. Independent audits are already carried out under PAS 125 which recognises the human, mechanical and process issues in delivering quality management. PAS accreditation should deliver continuous defect free repair. The PAS 125 audit should be extended to include examination of a number of completed repairs and the opinion of the consumer notwithstanding their lay knowledge of repair quality.
78.(d)	Results should be published or they add no value whatsoever. They should be categorised by both repairer and insurer. The job of collating and publishing the results should be done by a body with the respect of the consumer and industry such as The Consumer Association, Which? Were a credible body established to deal with the daily rates, standardized repair costs and write off costs, they could take on this task as part of their remit.
78.(e)	There should be a common repair quality audit framework with training and accreditation of auditor engineers.
78.(f)	Ideally all repair work should be completed to PAS 125 or equivalent standards but that would cut across the consumer's right to choose. It is not necessary to compel all repairers undertaking insurance work to be accredited. Where the consumer selects their own repairer or any service fulfilment organisation beyond the control of the insurer they must accept responsibility for the quality of the repair or service provision.

78.(g) Unless the number and frequency of audits is set at an excessive level, there is little likelihood that this remedy will lead to any attempts to avoid its requirements.

78.(h) There is no reason why this remedy should not be achieved through an EO.

78.(i) The remedy could sit alone but should be coordinated with the outcomes under remedies A, 1A or 1B and 1D.

Theory of Harm 4: Add-Ons

We broadly welcome your findings and potential remedies here. As we have outlined in our evidence previously NFU Mutual do not take the approach to add-ons which is typical in the market place. We sell a single PMI policy to all customers. This is a Defaqto 5* product. We do not offer a pared down or basic product to which many other covers or extensions (including those which may have previously been regarded a normal feature of PMI in the UK) are added at a cost after the customer has been quoted a base price in an attempt to maximise non-risk income.

Commenting specifically:

86.(a) Remedies under ToH4 need to be considered in connection with other proposed remedies impacting mobility solutions to ensure there are no conflicts in outcome.

86.(b) We believe you should make your recommendations to FCA who should then lead and implement any remedy given its supervisory role over those most impacted by remedies. FCA are already undertaking market studies likely to interact with your proposed remedies.

Remedy	**Description**
4A	**Provision of all add-on pricing from insurers to PCWs**
89	We do not operate via PCW sites so have only limited comment to make however it would appear appropriate that the requirement for more transparent add-on pricing information would need to exist across all distribution channels not just business transacted via PCWs to allow customers to make informed choices.
4B	**Transparent information concerning no-claims bonus**
92.(a)	We believe that the key issues are for customers to understand more clearly are the cost of their NCB protection and what it does/and does not mean regarding possible future premium changes post accident rather than to focus on explaining scales/percentages all of which can change
92.(b)	Plain English explanation of the operation of NCB is necessary to achieve the outcome sought however this would need to be developed by individual insurers to fit with their normal policy language.
92.(c)	No obstacles seen, simply the cost/resource needs of delivering the change.
92.(d)	Product/wording/business process and IT system changes such as this are likely to take a minimum of 12 months to achieve.

92.(e) No comment.

92.(f) No comment.

4C Clearer descriptions of add-ons

95 Whilst our own customer feedback does not support your findings regarding poor customer understanding of add-ons, we support your proposed remedies here and would see FCA as being the appropriate body to test and evidence improved customer outcomes from the changes you are seeking. The Key Facts in respect of the operation of add-ons needs to be included at the appropriate point of sale mechanism and then supported in policy documentation/summaries in whatever form they are distributed. We believe this is required for all add-ons which are offered.

Yours faithfully

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