

# Private Motor Insurance

Summary of responses to the OFT's call for evidence

December 2011

OFT1397

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# **1 EXECUTIVE SUMMARY**

- 1.1 On 8 September 2011, the OFT launched a call for evidence on the private motor insurance market. The focus of the call for evidence was on gathering data from market participants on whether widely reported increases in private motor insurance premiums were accurate, the reasons for these increases, and whether there were any competition or consumer issues that may need to be addressed in order to improve the functioning of the market. The UK private motor insurance market was estimated to be worth £9.4 billion in 2010.

## **Private motor insurance premiums**

- 1.2 We have found that private motor insurance premiums rose during the period from 2009 to 2011, although actual premiums paid do not appear to have increased as much as estimates based on analysis of quote data suggest. The evidence the OFT has gathered suggests that private motor insurance premiums paid rose by around 12 per cent between 2009 and 2010, and a further nine per cent between 2010 and the first three quarters of 2011.
- 1.3 The responses that we have received to our call for evidence indicate that the key driver of the increases in private motor insurance premiums has been an increase in the costs associated with personal injury claims. We have also heard that the increased cost of third party non-injury claims, which include credit hire replacement vehicles and third party vehicle repairs, and a fall in insurance companies' revenues from investing motor insurance premiums have also had some impact.
- 1.4 The data we have collected from insurance companies and brokers operating in both Northern Ireland (NI) and Great Britain (GB) indicates that in 2010 private motor insurance premiums paid were approximately 11 per cent higher in NI than GB, although we have been told by private motor insurance companies and brokers that this difference is narrower than in previous years. Further quote data that we have analysed for 2009 suggests that private motor insurance premiums quoted for drivers

in rural areas of NI appear to have been significantly higher than quotes for their counterparts in rural areas of GB.

- 1.5 The differences in premiums between NI and GB may be partly explained by the fact that only 54 per cent of consumers in NI shop around for motor insurance compared to 73 per cent of consumers in GB. This may result in less pressure being put on insurers to keep private motor insurance premiums as competitive in NI. We have also received evidence from private motor insurers that suggests other important factors are that claims costs in NI might be higher than in GB due to higher personal injury compensation levels, higher legal costs associated with NI claims and the impact of more motor accidents in NI.

### **Findings, conclusions and next steps on the competition and consumer issues identified**

- 1.6 We have identified a number of specific concerns during our call for evidence about the way that some aspects of the private motor insurance market in the UK are functioning.
- 1.7 The information we have gathered during the course of this call for evidence on both credit vehicle hire and insurers' repairer networks gives us reasonable grounds for suspecting that there are features of the market for the supply of private motor insurance in the UK are restricting and/or distorting competition. In particular we have found that:
- Private motor insurance companies responsible for meeting third party claims for credit hire replacement vehicles and/or vehicle repairs appear to have no choice over who provides the service to the claimant. They also appear to exercise only limited control over the costs that they have to meet, and appear to find it difficult to assess the extent to which the costs claimed are reasonable.
  - Rival private motor insurers, brokers and credit vehicle hire providers may therefore have the opportunity, and the incentive, to exploit third party insurers' lack of control over costs by carrying out practices, which allow them to generate revenues through referral fees or

rebates, while simultaneously inflating the costs that rival insurers have to meet. For example, insurance companies and others active in the private motor insurance market earn referral fees by referring drivers who have been involved in accidents to selected credit vehicle hire companies or certain repairers, neither of whose services may be most cost effective.

- 1.8 On the basis of the evidence we have gathered to date, we suspect that these activities are increasing costs across the private motor insurance market in the UK, and thereby contributing to higher premiums to be paid by drivers. The OFT wishes to gather further evidence before it consults as to whether or not to make a market investigation reference (MIR) to the Competition Commission.
- 1.9 The OFT has therefore decided to launch a market study into the supply of private motor insurance in the UK, with a specific focus on credit vehicle hire companies and insurers' repairer networks. In particular, we hope to clarify whether the scale of the problem is sufficient to warrant exercising our discretion to make an MIR and whether it would be more appropriate to address competition issues by way of an MIR or by other action by OFT or others, such as regulatory bodies. The OFT will also consider the other criteria identified in its Market Investigation Reference guidance in relation to the exercise of its discretion to make a reference.<sup>1</sup> We aim to complete this market study in spring 2012.
- 1.10 In addition, based on the information provided during our call for evidence, we have concerns relating to the provision of motor legal protection cover, a product that is sold alongside standard private motor insurance to drivers.
- 1.11 Our key concerns are that the complexity of motor legal protection cover and the way that it is being sold may make it difficult for drivers to make

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<sup>1</sup> These are summarised at paragraph 2.1 of the guidance, OFT 511 Market Investigation References, available here:  
[www.oft.gov.uk/shared\\_of/business\\_leaflets/enterprise\\_act/oft511.pdf](http://www.oft.gov.uk/shared_of/business_leaflets/enterprise_act/oft511.pdf).

an assessment of the product's potential value. Further, consumers may not be fully aware that they can 'opt out' of buying this product. The OFT was also provided with data which indicated that some of the private motor insurance companies' claims ratios and combined ratios for motor legal protection cover tended to be significantly lower than for other products sold alongside standard private motor insurance, perhaps indicating that consumers are sometimes receiving poor value for money when purchasing motor legal protection cover.

- 1.12 We are therefore calling on the Financial Services Authority (FSA) to work with the insurers and insurance brokers who sell this product to ensure that consumers are being provided with appropriate information when purchasing it. We consider that the FSA is best placed to take action because it can use the Financial Services and Markets Act 2000 (FSMA) to ensure that consumers are being treated fairly when the product is sold. The FSA sets out its approach to FSMA in its *Insurance Conduct of Business Sourcebook*, which demands that insurers take reasonable steps to ensure that a customer is given appropriate information about a private motor insurance product or policy.
- 1.13 The consensus among private insurance companies, brokers and price comparison sites that have responded to our call for evidence is that the growth in the use of price comparison sites to purchase private motor insurance has intensified price competition between these providers, generally to the benefit of consumers. However, some providers that sell private motor insurance through price comparison sites have voiced concerns about practices that may have the potential to compromise how well the sale of private motor insurance policies through price comparison sites works for consumers. We will continue to monitor the possible impact of these types of activities and may decide whether to undertake further work across the price comparison site sector in the future, if appropriate, in light of our prioritisation principles.

### **Assistance provided during our call for evidence**

- 1.14 We are also grateful for the assistance provided to us throughout our call for evidence from private motor insurers, brokers, price comparison sites,

vehicle repairers, credit vehicle hire organisations, the representative bodies active in the private motor insurance market and their various advisers. Throughout this call for evidence, the OFT has liaised closely with the FSA, the Ministry of Justice (MoJ), the Department for Transport (DfT), the Consumer Council of Northern Ireland (CCNI) and other consumer groups.



## 2 INTRODUCTION

- 2.1 In September 2011, the OFT launched a call for evidence on the private motor insurance market. Comprehensive car insurance premiums in the UK were widely reported to have risen by as much as 40 per cent in 2010-11.<sup>2</sup> Premiums were also reported to be significantly higher in NI than in GB.
- 2.2 The focus was on gathering evidence from market participants and others on whether reported increases in private motor insurance premiums were accurate, the reasons for any increases, and whether there were any competition or consumer issues that may need to be addressed to improve the functioning of the market. We also said that we would gather evidence on whether private motor insurance premiums in NI were higher than in GB and the reasons for any difference.
- 2.3 When we launched our call for evidence, we identified a number of aspects of the private motor insurance market that we thought may raise competition or consumer issues. These were:
- the role of price comparison sites,
  - the provision of credit hire replacement vehicles to drivers who are involved in accidents that are not their fault,
  - insurance companies' use of panels of approved repairers, and
  - ancillary products that are sold by insurance companies in addition to standard motor insurance cover.
- 2.4 We indicated that the impact of personal injury claims on the private motor insurance market would not be a principal focus of our evidence gathering since the Government was developing proposals, which would

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<sup>2</sup> According to the AA's British Insurance Premium Index, the 'shoparound average' for annual comprehensive car insurance cover rose by 40.1 per cent for the 12 months ending 31 March 2011. See: [www.theaa.com/services/insuranceandfinance/insuranceindex/index.html](http://www.theaa.com/services/insuranceandfinance/insuranceindex/index.html).

likely impact the costs of civil litigation in England and Wales. However, we have found that personal injury claims are a major driver of private motor insurance costs and many of the respondents to our call for evidence commented on the likely impact of the Government's proposals. We have liaised closely with the MoJ to pass on these views during the course of our work and chapter 8 sets out our findings on personal injury.

2.5 Over the course of the call for evidence, we have collected information from a variety of sources. In particular, we have:

- sent information requests to insurers, brokers, price comparison sites, vehicle repairers, credit vehicle hire firms and trade bodies active in the private motor insurance market,
- spoken to a number of businesses about their views on the private motor insurance market in greater depth,
- held a roundtable event with consumer groups,
- carried out omnibus surveys of consumers in both GB and NI who have purchased private motor insurance products, and
- conducted a review of relevant publicly available market reports, government reports, regulations and guidance.

## **OFT's mission and powers**

2.6 The OFT's mission is to make markets work well for consumers.

2.7 Given that we wanted to act swiftly and transparently due to the significance of reported premium rises and the potential impact of this on UK consumers, we opted to carry out a call for evidence. The call for evidence has consisted of a five week period of gathering data, and will have been conducted in three months from launch. The call for evidence has not, therefore, involved the same level of detailed analysis undertaken as part of, for example, a market study. This report sets out a summary of the evidence that we received from respondents. Material may appear

in an anonymous, aggregated, or otherwise redacted form in this report for reasons of commercial confidentiality.

- 2.8 The information used to compile this report was requested under Section 5 of the Enterprise Act 2002 (which sets out the OFT's general function of obtaining, compiling, and keeping under review information about matters relating to the carrying out of its functions).

## **Structure of this report**

- 2.9 This report sets out a summary of the evidence that we received in response to our call for evidence.

- This chapter sets out the background to the call for evidence, including the OFT's mission and powers.
- Chapter 3 sets out background on how competition is working in the private motor insurance market.
- Chapter 4 sets out our analysis of whether reported increases in private motor insurance premiums were accurate, and the reasons for any increases.
- Chapter 5 sets out evidence on whether private motor insurance premiums in NI were higher than in GB and the reasons for any difference.
- Chapter 6 sets out our findings on the impact that price comparison sites are having on competition in the private motor insurance market.
- Chapter 7 sets out the evidence we have gathered on the sale of the ancillary products that are sold by insurance companies alongside standard motor insurance cover.
- Chapter 8 sets out the evidence we received during the call for evidence on the impact of personal injury claims on the private motor insurance market and the steps that the Government is proposing to take to reduce the costs associated with personal injury claims.

- Chapter 9 presents the evidence received during our call for evidence regarding both credit vehicle hire and insurers' approved repairer networks.

2.10 Three annexes include definitions of ancillary products, a list of parties consulted and a summary of the results of omnibus surveys carried out for the OFT.

## Background

2.11 The call for evidence, initiated by the OFT, has been conducted against a backdrop of other relevant actions taken by the OFT itself, and also of other regulatory bodies. For example, on 2 December 2011, the OFT accepted formal commitments from six insurance companies and two IT software and service providers to limit the data they exchange between them. The OFT's investigation into the use of a specialist market analysis tool, Whatif? Private Motor, raised competition law concerns, in particular that it could potentially be used to coordinate on price. The formal commitments address these concerns by ensuring that the companies will exchange pricing information through the analysis tool only if that information meets certain principles agreed with the OFT. These principles require the information, if less than six months old, to be anonymised, aggregated across at least five insurers and already 'live' in broker-sold policies.<sup>3</sup>

2.12 In March 2011, the House of Commons Transport Select Committee published a report on the cost of motor insurance.<sup>4</sup> This focused on the impact of rising personal injury costs, fraud, and uninsured drivers. The

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<sup>3</sup>*'OFT accepts formal commitments after motor insurers agree to limit data exchange'*, Office of Fair Trading, December 2011, [www.oft.gov.uk/news-and-updates/press/2011/129-11](http://www.oft.gov.uk/news-and-updates/press/2011/129-11).

<sup>4</sup>*'The cost of motor insurance'*, House of Commons Transport Select Committee, March 2011, [www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/591/591.pdf](http://www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/591/591.pdf).

Government responded to the report's recommendations in September 2011.<sup>5</sup>

2.13 In March 2009, the CCNI published a report *Quote...Unquote: The cost of insurance in Northern Ireland*<sup>6</sup> and on 31 August 2011 the CCNI made a formal submission to the OFT asking it to examine the cost of motor insurance in NI. We are particularly grateful for the assistance of the CCNI for their ongoing cooperation in this call for evidence and for their previous work in this area.

2.14 The MoJ's Legal Aid Sentencing and Punishment of Offenders Bill 2011 (the Bill),<sup>7</sup> introduced in the House of Commons on 21 June 2011, contains a number of measures implementing reforms to the funding of civil litigation in England and Wales proposed by Lord Justice Jackson. The Bill proposes changes to the current system of conditional fee agreements to prevent claimants seeking compensation on a no win, no fee basis. On 25 October 2011, the Government introduced an amendment to the Bill making the payment and receipt of referral fees in personal injury cases an offence.<sup>8</sup>

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<sup>5</sup> *The cost of motor insurance: Government response*, September 2011, [www.publications.parliament.uk/pa/cm201012/cmselect/cmtran/1466/146604.htm](http://www.publications.parliament.uk/pa/cm201012/cmselect/cmtran/1466/146604.htm).

<sup>6</sup> *'Consumer Council Says Consumers Pay Too Much for Insurance in Northern Ireland'*, Consumer Council of Northern Ireland, March 2009, [www.consumercouncil.org.uk/newsroom/507/consumer-council-says-consumers-pay-too-much-for-insurance-in-northern-ireland/](http://www.consumercouncil.org.uk/newsroom/507/consumer-council-says-consumers-pay-too-much-for-insurance-in-northern-ireland/).

<sup>7</sup> *'Legal Aid, Sentencing and Punishment of Offenders Bill (HL Bill 109)'*, [www.publications.parliament.uk/pa/bills/lbill/2010-2012/0109/lbill\\_2010-20120109\\_en\\_1.htm](http://www.publications.parliament.uk/pa/bills/lbill/2010-2012/0109/lbill_2010-20120109_en_1.htm).

<sup>8</sup> See paragraph 8.7.

2.15 The FSA has raised concerns about the fair treatment of consumers who buy insurance on price comparison sites and produced finalised guidance for businesses that operate these sites in October 2011.<sup>9</sup>

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<sup>9</sup> *'Guidance on the selling of general insurance policies through price comparison websites'*, FSA, October 2011, [www.fsa.gov.uk/pubs/guidance/fg11\\_17.pdf](http://www.fsa.gov.uk/pubs/guidance/fg11_17.pdf).

### 3 THE PRIVATE MOTOR INSURANCE MARKET

- 3.1 This chapter sets out some contextual information on competition in the UK private motor insurance market.

#### Background on the supply side of the market

- 3.2 The UK private motor insurance market was estimated to be worth £9.4 billion in 2010.<sup>10</sup>
- 3.3 There has been a reasonable degree of consensus amongst respondents to our call for evidence that the private motor insurance market is strongly competitive.
- 3.4 On the basis of the most recent data available, the private motor insurance market does not appear to be particularly concentrated.<sup>11</sup> In 2010, the largest five firms constituted 55 per cent of the market and none of the firms who make up the remaining 45 per cent of the market have a market share larger than 5.7 per cent.<sup>12</sup>
- 3.5 There appears to be a high degree of competitive rivalry between insurers. The most recent market share data reported by Datamonitor shows volatility in the market, with one firm increasing its gross written premium

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<sup>10</sup> 'UK- Private Motor Insurance 2011', Datamonitor, July 2011. This estimate is of gross written premium for comprehensive and non-comprehensive motor insurance and excludes motorcycle insurance.

<sup>11</sup> A calculation of the Herfindahl-Hirschman index of the market for private car insurance and motorcycle insurance yields a result less than 965, indicating an unconcentrated market. The market share data was from 'UK- Private Motor Insurance 2011', Datamonitor, July 2011.

<sup>12</sup> 'UK- Private Motor Insurance 2011', Datamonitor, July 2011. The gross written premium in this calculation includes motorcycle insurance. Gross written premium for motorcycle insurance was estimated to be worth £126 million in 2010, whilst gross written premium for comprehensive and non-comprehensive car insurance was estimated to be worth £9.38 billion in 2010. Market shares referred to in this report include non-comprehensive and comprehensive car insurance, and motorcycle insurance.

by 60.6 per cent in a single year, and one firm's gross written premium decreasing by 12.8 per cent in a single year.<sup>13</sup> We have been informed by respondents to our call for evidence that the increase in price transparency brought about by the development of price comparison sites since 2002 appears to have intensified price competition between insurers.

- 3.6 In terms of recent entry and exit of competitors in the market, HSBC and QBE recently stopped offering private motor insurance,<sup>14</sup> whilst other established private motor insurers have recently launched new, online only brands, for example, Swiftcover and eCar.<sup>15</sup>

## **Background on the demand side of the market**

- 3.7 The evidence we have gathered suggests that consumers are generally shopping around effectively for private motor insurance cover. Our omnibus survey found that:

- Seventy-three per cent of private motor insurance policy holders in GB shopped around at their last renewal and in NI the figure was 54 per cent.<sup>16</sup>

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<sup>13</sup> *UK- Private Motor Insurance 2011*, Datamonitor, July 2011. The firms mentioned moved from a gross written premium (GWP) of £234m in 2009 to a GWP of £376m in 2010 and from a GWP of £435m in 2009 to a GWP of £379m in 2010, respectively. This is in a market that expanded by 2.8 per cent in total between 2009 and 2010. This gross written premium includes motorcycle insurance. See footnote 12 for more details.

<sup>14</sup> See: [www.insuranceage.co.uk/insurance-age/news/1561771/qbe-dispose-personal-lines-motor](http://www.insuranceage.co.uk/insurance-age/news/1561771/qbe-dispose-personal-lines-motor) and [www.insuranceage.co.uk/insurance-age/news/2092875/hsbc-insurance-uk-sold-gbp685m](http://www.insuranceage.co.uk/insurance-age/news/2092875/hsbc-insurance-uk-sold-gbp685m).

<sup>15</sup> Swiftcover is an AXA brand and eCar is an eGroup brand.

<sup>16</sup> Based on a sample of 410 respondents in GB and 460 respondents in NI, 2011 OFT omnibus survey.



- Of those who shopped around, 45 per cent in GB and 33 per cent in NI switched private motor insurance provider.<sup>17</sup>
- Thirty-three per cent of consumers in GB who chose to stay with their existing insurer negotiated with that insurer to try to get a cheaper deal. In NI, 58 per cent of those who stayed with their existing insurer negotiated in order to get try to get a better deal.<sup>18</sup>
- Seventy-two per cent of consumers who shopped around at their last renewal used at least one price comparison site. In NI, 55 per cent of consumers who shopped around used at least one price comparison site.<sup>19</sup>

3.8 During the call for evidence, we gathered evidence on some of the obstacles that consumers may face when shopping around. This work highlighted the following potential obstacles:

- **Consumers being placed on automatically renewable contracts by private motor insurers, which may constitute a barrier to consumers being able to shop around effectively.** The FSA has considered the issue of automatically renewable contracts and has clarified that it is important that consumers should consent to them.<sup>20</sup>

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<sup>17</sup> Based on a sample of 293 respondents in GB and 251 respondents in NI, 2011 OFT omnibus survey.

<sup>18</sup> Based on a sample of 270 respondents in GB and 373 respondents in NI, 2011 OFT omnibus survey.

<sup>19</sup> Based on a sample of 314 respondents in GB and 265 respondents in NI, 2011 OFT omnibus survey.

<sup>20</sup> *'Insurance selling and administration & other miscellaneous amendments'*, FSA, January 2004, [www.fsa.gov.uk/pubs/policy/ps04\\_01.pdf](http://www.fsa.gov.uk/pubs/policy/ps04_01.pdf).

- **Consumers not being given a sufficient notice period by private motor insurers prior to an automatic policy renewal.** However, the FSA has rules to ensure that consumers get renewal notices in good time.<sup>21</sup>
- **Consumers having to pay a fee if they wish to cancel their private motor insurance and switch to another private motor insurer.** As part of the call for evidence, private motor insurers provided information to the OFT regarding their renewals process and the costs incurred in cancelling a customer's private motor insurance policy. On the basis of data obtained, we do not consider that these cancellation fees would constitute a significant barrier to switching.<sup>22</sup>
- **It may not be possible to compare private motor insurance policies effectively when using price comparison sites because the policy features and level of cover varies.** To address this issue, the FSA has recently published guidance to price comparison sites that sell general insurance,<sup>23</sup> and the Association of British Insurers (ABI) has published good practice guidelines for price comparison sites; both of which apply to private motor insurance price comparison sites.<sup>24</sup>

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<sup>21</sup> The FSA's Insurance Conduct of Business Sourcebook (ICOBS) requires that insurers notify a customer of a potential renewal in comprehensible language and in good time. See: <http://fsahandbook.info/FSA/html/handbook/ICOBS/6/1>.

<sup>22</sup> Information provided to us indicated fees of up to £50 for a typical midterm cancellation. When cancelling a policy insurers face administration costs and attempts to reclaim costs such as those incurred when validating information upon the sale of the policy. Insurers have also identified costs related to the 'last known insurer' clause in the Road Traffic Act 1988 that leaves them potentially liable if a customer cancels a policy and subsequently has an accident while uninsured.

<sup>23</sup> This guidance reminds price comparison sites that they should have sufficient authorisations to engage in their business and ensure that the policies sold to consumers via their sites are appropriate for the consumer. See: [www.fsa.gov.uk/pubs/guidance/fg11\\_17.pdf](http://www.fsa.gov.uk/pubs/guidance/fg11_17.pdf).

<sup>24</sup> *The ABI publishes Good Practice Guide to help customers buying insurance online*, ABI, December 2009,

## 4 ANALYSIS OF PRIVATE MOTOR INSURANCE PREMIUMS

4.1 In our call for evidence we asked respondents whether recently reported increases in private motor insurance premiums were accurate and what the reasons for these increases were. This chapter summarises the evidence we have collected in response.

### Movements in premiums

4.2 There is general agreement among insurers, the ABI and brokers that private motor insurance premiums increased in the period from 2009 to 2011. However, estimates of the size of this increase differ widely according to the method used to calculate the change. Estimates based on premiums actually paid show a smaller increase during that period than those based on quotes (**See Table 4.1 below**):

- Estimates based on data collected by Confused.com/Towers Watson for new business quotations indicate that the price of comprehensive car insurance cover in the UK rose by 30 per cent between 2009 and 2010 and by a further 18 per cent between 2010 and the first three quarters of 2011.
- Similarly, estimates based on quote data collected by the AA suggest that the price of comprehensive car insurance cover rose by 29 per cent between 2009 and 2010, and by a further 28 per cent between 2010 and the first three quarters of 2011.
- By contrast, data provided by the ABI shows that premiums paid rose by 12 per cent between 2009 and 2010. Data provided by individual insurance companies shows that premiums paid rose by 13 per cent in the same period. ABI data also suggests that premiums rose a further 9 per cent between 2010 and the first three quarters of 2011.

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[www.abi.org.uk/Media/Releases/2009/12/The\\_ABI\\_publishes\\_Good\\_Practice\\_Guide\\_to\\_help\\_customers\\_buying\\_insurance\\_online.aspx](http://www.abi.org.uk/Media/Releases/2009/12/The_ABI_publishes_Good_Practice_Guide_to_help_customers_buying_insurance_online.aspx)

**Table 4.1: Percentage variation in premiums between 2006 and 2011 according to different methods of calculation**

| Method of estimation <sup>1</sup>   | Variation in premiums between 2006 and 2007 | Variation in premiums between 2007 and 2008 | Variation in premiums between 2008 and 2009 | Variation in premiums between 2009 and 2010 | Variation in premiums between 2010 and 2011 |
|---|---|---|---|---|---|
| Annual average of AA quarterly index for comprehensive cover <sup>2</sup>   | 1%  | 6%  | 10%   | 29%   | 28%   |
| Annual average of Confused.Com/Towers Watson quarterly index for comprehensive cover <sup>3</sup>                           | N/A   | 0%  | 8%  | 30%   | 18%   |
| Average written premiums based on data provided by the ABI <sup>4</sup>   | 0%  | 1%  | -3%   | 12%   | 9%  |
| Weighted average of written premiums based on data provided by insurers who responded to our call for evidence <sup>5</sup> | 0%  | -1%   | -3%   | 13%   | N/A   |

Notes:

1. Figures used in calculations are based on average annual premiums for each calendar year. Estimates are not adjusted for inflation. Figures for 2011 are averages of data for the first three quarters of the year (January 2011 to September 2011).

2. The AA British Insurance Premium Index tracks the quarterly movement of insurance premiums for comprehensive cover for cars quoted by about 80 insurers, brokers and insurance

schemes in the UK against a consistent pool of 2,800 risks representative of the UK market. The AA's 'Shoparound' index measures the average of the three cheapest premiums quoted for each risk in the basket. The figures shown in the table are changes in estimates of annual averages for new business quotations (as opposed to premiums actually paid) calculated by the OFT for each year by averaging the AA index over the relevant quarters.

3. The Confused.com/Towers Watson Car Insurance Price Index tracks price trends in the UK, with results published quarterly. The index is compiled using anonymous applicant data and uses the average of the five cheapest quotes for comprehensive cover for cars received in response to an enquiry on Confused.com. The figures shown in the table are changes in estimates of annual averages for new business quotations (as opposed to accepted/purchased policies) calculated by the OFT by averaging the Confused.com/Towers Watson index over the relevant quarters.

4. The ABI provided information on quarterly and average annual premiums for private cars and motorcycles in the UK. It calculated these figures by dividing Gross Written Premium by the total number of private motor policies in force.

5. The OFT's analysis of average premiums for policies sold in a given year is based on submissions provided by insurance providers that, according to *UK - Private Motor Insurance 2011*, Datamonitor, July 2011, together comprised approximately 70 per cent of the market in 2010.

4.3 There are several factors that we understand may account for the difference between estimates of increases in premiums paid and estimates of increases in premiums quoted:

- Both of the estimates based on quotes are for comprehensive private motor insurance only, whereas estimates based on data on actual premiums paid include other types of private motor insurance policies, such as those covering third party, fire and theft, which may not have increased in price to the same extent.
- Measures based on quote data comprise only quotes for new business whereas measures based on premiums paid include premiums paid not only by customers who are new to a company but also by existing customers who renew their insurance. Insurers tend to be relatively well informed about existing customers and the costs associated with renewal business are lower than the costs of attracting new customers. It is possible that some consumers who renewed their car insurance didn't experience the same level of price increase as those who switched.

- In periods when quoted premiums are rising, consumers who haven't previously shopped around for cover may decide to do so. An increase in the level of shopping around might lead to actual premiums paid rising less than quoted premiums.
- The profile of the UK driving population is increasing in age, leading to a reduction in the underlying risks of the entire profile because younger drivers are often assessed as being more risky to cover. This trend would be taken into account by estimates based on premiums paid but not by indices which are based on a consistent pool of risks, including the number of young drivers. The effect of this might be enhanced if rising premiums meant that more young drivers were unable to insure vehicles because they had been priced out of the market.<sup>25</sup>
- Some consumers may have purchased a lower level of cover to mitigate premium increases. This would not be reflected in the indices based on quoted premiums which compare the same risks year on year.

## Explanations for movements in premiums

4.4 We have heard a number of explanations from insurers, brokers, the ABI and others during our call for evidence as to what caused the increase in premiums in 2010 and 2011.<sup>26</sup>

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<sup>25</sup> Submissions received during our call for evidence explained that young drivers represent a higher risk category and as such have higher premiums.

<sup>26</sup> Much of the information and analysis presented in the following paragraphs are based on information provided by insurers. Please note that estimates of different measures are based on analyses performed over different sets of companies. Information reported in each case refers to those companies that have provided comparable information. Please note also that figures cited for the proportion of the market constituted by companies whose data is used in our calculations are derived from *UK - Private Motor Insurance 2011*, Datamonitor, July 2011.

4.5 Insurers appear to have raised private motor insurance premiums after suffering underwriting losses due to increases in claim costs in recent years. The OFT's analysis appears to show that increases in premiums in 2010 did not correspond to insurance companies making underwriting profits. Responses to our call for evidence indicated that the combined ratios<sup>27</sup> of 14 private motor insurers increased from an estimated 96 per cent in 2006 to an estimated 117 per cent in 2010, suggesting that private motor insurers moved from making small underwriting profits to incurring underwriting losses. Recent media reports have, however, suggested that combined ratios may have fallen in 2011 following further private motor insurance price rises.<sup>28</sup> **Table 4.2** sets out our analysis of combined ratios.

**Table 4.2: Weighted average combined ratios for motor insurance business between 2006 and 2010**

|                          | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
|--------------------------|------|------|------|------|------|------|
| Combined operating ratio | 96%  | 99%  | 102% | 113% | 117% | N/A  |

Source: OFT analysis of data submitted by insurance providers.

#### Notes

1. The figures set out above are based on weighted averages calculated using data provided by 14 insurance companies that comprised around 70 per cent of the market in 2010. Data are weighted on the basis of the number of policies sold each year, as per insurers' submissions to us, as a proxy for costs and revenues. We tested the robustness of our results by weighting the data on the basis of revenues earned from the sales of policies in each year and this produced similar results.

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<sup>27</sup> An insurer's combined ratio is the combined claims and operating expenses as a percentage of premium income. A combined ratio below 100 per cent indicates that the company is making an underwriting profit while a ratio above 100 per cent means that it is paying out more in claims and operating costs than it is receiving from premiums.

<sup>28</sup> Financial Times at [www.ft.com/cms/s/0/9f6ae7d2-1cd2-11e1-a134-00144feabdc0.html](http://www.ft.com/cms/s/0/9f6ae7d2-1cd2-11e1-a134-00144feabdc0.html).

- 4.6 Most insurers reported that rising claims costs have been driven primarily by increases in costs associated with personal injury claims. Some insurers have also cited increases in the third party non-injury-related element of claims, which includes the costs of third party repairs and credit vehicle hire.
- 4.7 Information provided by insurers indicates that the costs associated with personal injury claims account for around 50 per cent of their overall claims costs.<sup>29</sup> An OFT estimate based on ABI data suggests that these costs have increased by 40 per cent between 2006 and 2010.<sup>30</sup>
- 4.8 Other insurers<sup>31</sup> have told us that the third party non-injury-related element of claims, which include third party repairs and credit vehicle hire costs, has also risen. According to estimates based on data from the Institute and Faculty of Actuaries, the average cost of the third party non-injury element of settled claims increased by about nine per cent<sup>32</sup> per annum between 2006 and 2010.<sup>33</sup> Limited data from individual insurers

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<sup>29</sup> Information based on written responses from insurers covering about 45 per cent of the market in 2010. Insurers that have provided information on personal injury costs were predominantly insurers with larger market shares. Estimates from the Institute and Faculty of Actuaries appear to corroborate this finding.

<sup>30</sup> ABI Data Bulletin, Analysis of the UK motor insurance market 2010, August 2011. The data we have gathered from the individual insurance companies does not contradict this. However, many insurance companies submitted data for the average value of this type of claim without providing data on the number of instances of this type of claim in each year. We were therefore unable to verify these conclusions.

<sup>31</sup> Insurers covering about 50 per cent of the market in 2010.

<sup>32</sup> The Actuarial Profession 'Workshop F1: Third party motor - the journey continues. An update from the third party motor working party' [www.actuaries.org.uk/research-and-resources/documents/workshop-f1-third-party-motor-journey-continues-update-third-party](http://www.actuaries.org.uk/research-and-resources/documents/workshop-f1-third-party-motor-journey-continues-update-third-party).

<sup>33</sup> The data we have gathered from the individual insurance companies does not contradict this and appears to show that the average cost of a third party damage claim has increased in the period considered. However, many insurance companies submitted data for the average value of this type of claim without providing data on the number of instances of this type of claim in each year. We were therefore unable to fully verify these conclusions.



covering about 20 per cent of the market in 2010 indicates that non-injury-related third party costs made up around 20 per cent of total claims costs in 2010.<sup>34</sup> Given that both the third party non-injury-related share of overall claims costs and its percentage increase may be lower than for personal injury costs, increases in third party non-injury-related claims costs may not have had as great an impact on overall claims costs as increases in personal injury costs.

- 4.9 The submissions we received from the industry have indicated that there are significant costs associated with fraud and uninsured driving. The costs associated with fraud are difficult to measure and we received few detailed submissions from individual insurers on the level of costs associated with fraud or on recent trends in the level of fraud. However, the submissions that we have received indicate that there are significant costs associated with fraudulent whiplash claims, staged accidents and application fraud. The Insurance Fraud Bureau (IFB) estimates that there were over 30,000 fraudulent motor accident claims in 2009<sup>35</sup> and that fraudulent motor insurance claims cost the insurance industry around £350 million each year. We discuss the impact of fraud on personal injury claims costs and action being taken to help reduce personal injury claims costs in chapter 8. We have heard that the costs associated with uninsured driving are also significant, costing the insurance industry about £400 million per annum.<sup>36</sup> However, some of the submissions we

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<sup>34</sup> This estimate is based on data for non-injury-related third party costs that have been provided by a limited range of insurers. Results are based on claim costs being allocated between personal injury, accidental damage, third party non-injury costs and, in some cases, theft. Data is weighted on the basis of the number of policies sold in a given year.

<sup>35</sup> House of Commons Transport Committee, *The Cost of Motor Insurance*, Fourth Report of Session 2010-11 Volume I at p 118. See: [www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/591/591.pdf](http://www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/591/591.pdf).

<sup>36</sup> The Motor Insurance Bureau ensures that victims of uninsured driving and 'hit and run' drivers do not go uncompensated following an accident. In 2010 the gross levy on insurers to the MIB was £397 million. See: '*The Cost of motor insurance*', House of Commons Transport Select Committee, March 2011, [www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/591/591.pdf](http://www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/591/591.pdf).

received have indicated that the new continuous insurance enforcement scheme should have an effect in reducing these costs.<sup>37</sup>

4.10 The ABI, the British Insurance Brokers' Association (BIBA) and some insurance companies have further commented that increases in premiums have in some cases been necessary to offset reduced investment returns related to low interest rates and the economic downturn. The investment of motor insurance premiums is an important source of revenue that partially offsets claims costs. Figures from the ABI suggest that investment income has dropped from £1,043 million in 2006 to £804 million in 2010.<sup>38</sup> Our analysis of data provided by insurance companies with market share of approximately 65 per cent in 2010 found that between 2006 and 2010 revenues from the investment of premium income dropped significantly for the majority of the companies that provided data, but increased notably for a smaller number of companies. Moreover, the movements in revenues made by individual companies each year appear to be fairly volatile.

4.11 However, insurance companies appear to have been successful in growing revenues associated with private motor insurance in other ways in recent years:

- We have analysed revenues generated from charges for credit paid by consumers who opt to pay their private motor insurance premiums in instalments. BIBA stated that charges related to instalment income in recent years have remained broadly constant. However, our analysis of revenues generated by companies with around 50 per cent market

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<sup>37</sup> It is now an offence under section 22 The Road Safety Act 2006 to be the registered keeper of a vehicle that does not meet statutory insurance requirements. The OFT notes that the scheme applies in England, Wales and Scotland but not in NI.

<sup>38</sup> The ABI estimates investment income using the percentage return provided by insurance companies on worldwide general business premiums.

share in 2010 suggested an increase in revenue from credit charges of 34 per cent between 2006 and 2010.<sup>39</sup>

- Income from the sale of ancillary services such as breakdown cover and motor legal protection cover appears to have decreased for half the insurance companies that we gathered data from and increased substantially for the others between 2006 and 2010. Movements in revenues from the sale of ancillary services not only varied greatly between companies but appear to have been fairly volatile from year to year. This data was provided by insurance companies covering about 60 per cent of the market in 2010.
- We have analysed revenues generated from referral fees. Our analysis shows that in the period between 2006 and 2010 revenues increased for all of the companies we considered. Data on this was provided by insurance companies covering about 20 per cent of the market in 2010. The ABI reports that referral fees relating to personal injury of approximately £100 million were received by insurers in 2010. We have found that referral fee income is being earned by insurance companies from other sources as well (see chapter 9).

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<sup>39</sup> Data is weighted on the basis of revenues earned from policies sold as per insurers' submissions to us.

## 5 ANALYSIS OF NORTHERN IRELAND PRIVATE MOTOR INSURANCE PREMIUMS

- 5.1 On 31 August 2011, the CCNI made a formal submission to the OFT asking it to examine the cost of motor insurance in NI. When we launched our call for evidence we said that we would gather evidence on whether private motor insurance premiums in NI are higher than they are in the rest of the UK and the reasons for any difference. This chapter sets out our findings.<sup>40</sup>

### Comparison of private motor insurance premiums between Northern Ireland and Great Britain

- 5.2 The OFT's analysis of data supplied by insurance companies and brokers<sup>41</sup> operating in both NI and GB indicates that in 2010 private motor insurance premiums paid were approximately 11 per cent higher in NI than in GB. Insurance companies and brokers have indicated in their submissions that historically there had been a far larger difference in premiums but that this difference has reduced over the last five years.
- 5.3 We have also revisited the 2009 quote data that the CCNI gathered for its 2009 report *Quote...Unquote: The cost of insurance in Northern Ireland*.<sup>42</sup>

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<sup>40</sup> It should, however, be noted that findings set out in the rest of the report apply to the UK market as a whole so include NI. Therefore this chapter should be read in conjunction with the rest of this report and should not be treated as a standalone commentary on the NI private motor insurance market.

<sup>41</sup> Based on a limited number of responses representing 35 per cent of the market (by number of policies), data received by the OFT suggests that the weighted average premium for a customer in NI may be 11 per cent higher than for a customer elsewhere in the UK. However the OFT is inclined to exercise caution in interpreting this figure as only a limited proportion of market participants are included in the OFT data quoted. The data provided has not enabled the OFT to make an assessment on market concentration. However, according to the 2009 CCNI data, approximately 20 insurers provide quotes for private motor insurance in NI.

<sup>42</sup> This analysis is based on quote data gathered from price comparison sites by the CCNI. The CCNI used this data within its 2009 report *Quote...Unquote: The cost of insurance in Northern*

Our analysis indicates that in 2009 NI was the third most expensive out of nine UK regions in which to buy private motor insurance, behind the North-West and the Midlands.<sup>43</sup> The data also suggests that in 2009 those drivers in NI that live in rural areas appear to be particularly disadvantaged in comparison with their counterparts in GB. Quotes for drivers in urban areas in NI were similar to those for their counterparts in urban areas of GB. However quotes for drivers in rural areas in NI appear to have been between 30 per cent and 70 per cent higher than quotes for their counterparts in rural areas of GB.

## Potential explanations for differences in premiums

- 5.4 We also attempted to gather evidence on the factors that could be responsible for the reported differences in private motor insurance premiums between NI and GB. From the evidence we have gathered there appear potentially to be three key reasons.
- 5.5 First, it appears that consumers in NI are not doing as much to drive competition as their counterparts in GB. Data gathered in an OFT 2011 omnibus survey indicates that consumers in NI are less likely to shop around for private motor insurance and less likely to switch provider. Only 54 per cent of consumers in NI shopped around for their private motor insurance at their last renewal compared to 73 per cent in GB.<sup>44</sup> Further, of those who shopped around, only 33 per cent of consumers in NI

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*Ireland.* The CCNI's initial analysis was based on median quotes. The raw data included information on the lowest quote each consumer was offered. We have analysed lowest quote data as we consider that it is more likely to reflect the premium that would actually have been paid.

<sup>43</sup> In the data provided the UK has been divided into 9 regions: Northern Ireland, Scotland, North-East, North-West, Wales, Midlands, East Anglia, South-West, South-East & London.

<sup>44</sup> Based on a sample of 410 respondents in GB and 460 respondents in NI, 2011 OFT omnibus survey.

switched their provider at the last renewal compared with 45 per cent in GB.<sup>45</sup>

5.6 Second, private motor insurance companies and brokers that responded to our call for evidence have stated that the costs of private motor insurance claims are higher in NI than in GB. Private motor insurers have told us that there are two key explanations for this:

- Compensation levels for personal injury claims are higher in NI. Private motor insurers have pointed to differences in the levels of compensation set out in the relevant guidelines<sup>46</sup> and have stated that, as a result, personal injury settlements are higher.
- Differences in the legal processes appear to be leading to higher legal costs in NI in comparison with GB. In particular, the absence of a compulsory pre-action protocol in NI<sup>47</sup> may well have the effect of making litigation more prevalent than in GB as the applicable

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<sup>45</sup> Based a sample of 293 respondents in GB and 251 respondents in NI, 2011 OFT omnibus survey.

<sup>46</sup> Data provided by some insurers indicates that the average level of compensation they have paid in Northern Ireland has been considerably higher than in England and Wales. We have heard that the gap between NI and GB has narrowed recently although submissions received indicate that compensation levels continue to be higher than England and Wales. Guidelines for compensation levels in NI are set by Judicial Studies Board for Northern Ireland. See: Guidelines for the Assessment of General Damages in Personal Injury Cases in Northern Ireland (Third Edition), Judicial Studies Board for Northern Ireland, 2008.

<sup>47</sup> The Civil Procedure Rules 1998 (SI 1998/3132 as amended) contain a Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents. See: [www.justice.gov.uk/guidance/courts-and-tribunals/courts/procedure-rules/civil/contents/protocols/prot\\_rta.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/courts/procedure-rules/civil/contents/protocols/prot_rta.htm). The pre-action protocol for road traffic accidents is set by the Ministry of Justice. It describes the behaviour the court will normally expect of the parties prior to the start of proceedings where claims damages are valued at no more than £10,000.

procedures do not appear to provide the same incentive to settle cases quickly.<sup>48</sup>

- 5.7 The third explanation provided is road safety. Statistically NI has more accidents per capita and per vehicle which impacts upon private motor insurers' costs.<sup>49</sup>

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<sup>48</sup> Respondents have indicated that while claimant and defendant legal rates are not higher in NI than in GB, settlement often takes place close to a hearing, resulting in higher costs. The practice of retaining counsel for valuation and negotiation is more prevalent in NI than in GB which adds to overall litigation costs. It should be noted that in their submissions legal associations denied the legal process in Northern Ireland was comparably more expensive than GB.

<sup>49</sup> *Department for Regional Development Northern Ireland Transport Statistics 2010-2011*. In 2010 NI had 315 reported road traffic injury collisions per 100,000 of the population. This compares with 263 in England, 197 in Scotland and 228 in Wales. In the same year Northern Ireland had 54 reported traffic injury collisions per 10,000 vehicles compared with 47 in England, 38 in Scotland and 40 in Wales.

## 6 PRICE COMPARISON SITES

- 6.1 Price comparison sites play an increasingly important role in the private motor insurance market in the UK. This chapter sets out the findings from our call for evidence on the impact that price comparison sites appear to be having on the private motor insurance market.
- 6.2 Respondents to our call for evidence have told us that approximately 60 per cent of new private motor insurance policies are sold via these sites. The four largest price comparison sites (Moneysupermarket.com, Gocompare.com, Comparethemarket.com and Confused.com) together receive approximately 85 per cent of all drivers seeking information on private motor insurance visiting price comparison sites. Three of these four price comparison sites have ownership links to insurance companies or brokers that provide private motor insurance quotes on these sites.<sup>50</sup>
- 6.3 Price comparison sites earn revenue from the commission they charge to insurance companies and brokers that sell private motor insurance policies through them. Commissions tend to be fixed sums negotiated with each private motor insurance provider, rather than varying according to the level of the premium.
- 6.4 The consensus among insurance companies, brokers and price comparison sites is that the growth in the use of price comparison sites has intensified price competition between private motor insurance providers. Respondents to our call for evidence have told us that the greater price transparency brought about by these sites prevented premiums from increasing as claims costs rose in the period up to 2009. We have also been informed that price comparison sites have facilitated the entry to the market of small and niche private motor insurers by

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<sup>50</sup> Confused.com is wholly owned by the Admiral Group plc. Comparethemarket.com is owned by the BGL Group, whose brands include Budget Insurance and Direct Dial Insurance and which also provides insurance services to Marks & Spencer and the Post Office. The esure group of companies (which includes esure Insurance Limited.) owns a 49 per cent stake in Gocompare.com.



enabling them to reach a large number of potential customers without incurring significant up-front marketing costs.

- 6.5 Nevertheless, some of the businesses that sell private motor insurance through price comparison sites have voiced concerns about practices that, if evidenced, may have the potential to compromise how well the sale of private motor insurance policies through certain price comparison sites works for consumers.
- 6.6 In this context, the OFT has been informed that ownership links between private motor insurance providers and price comparison sites could have the potential to confer a competitive advantage on those private motor insurance providers over their rivals. In particular, we have heard from some private motor insurance providers that those insurers with links to price comparison sites may be able to access rival private motor insurers' quote data in real time, which could enable them to take such data into account in adjusting their own quotes if they wished to. However, both price comparison sites and the insurance providers that own these sites have confirmed to the OFT that they don't exchange data in this way.
- 6.7 If at some point in the future the OFT was to obtain sufficient evidence that this type of activity was being carried out, the OFT would be highly concerned about its potential to distort and restrict competition and would consider swiftly whether it was appropriate to prioritise taking further action.
- 6.8 It is worth noting in this context that the OFT has recently considered the sharing of pricing information between insurance companies. On 2 December 2011 the OFT accepted formal commitments from six insurance companies and two IT software and service providers to limit the data they exchange between them. These commitments related to the sharing of historic pricing data.<sup>51</sup>

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<sup>51</sup> See paragraph 2.11.

- 6.9 The OFT has also been informed that some price comparison sites require private motor insurance providers who quote on their sites to agree to 'best price guarantee' clauses. These clauses may prevent a private motor insurance provider from undercutting the price it offers through those price comparison sites by offering a lower price either when the customer purchases from it directly or, in some cases, on other price comparison sites.
- 6.10 We are concerned that such agreements could have the impact of reducing price competition between price comparison sites and other sales channels and possibly between price comparison sites. In this context, the OFT has recently focussed, and is focussing, resources on considering similar issues in other sectors. For example, the OFT is conducting an investigation into suspected breaches of competition law in the hotel online booking sector, in particular in relation to arrangements between hotels and online travel agents. In addition, the OFT investigated previously whether arrangements that certain publishers have put in place with some retailers for the sale of e-books may breach competition rules. On 6 December, the OFT decided to close its e-books investigation on the grounds of the OFT's administrative priorities, in particular because the OFT believes, following discussions with the European Commission, that the European Commission is currently well placed to arrive at a comprehensive resolution of this matter and will do so as a matter of priority.
- 6.11 We will continue to monitor the possible impact of 'best price guarantee' clauses in the private motor insurance market and may decide whether to undertake further work across the price comparison site sector, if appropriate in light of our prioritisation principles.

## 7 ANCILLARY PRODUCTS

- 7.1 In addition to gathering evidence on standard private motor insurance cover we have also gathered evidence on the ancillary products that are sold by insurance companies alongside standard private motor insurance cover. This chapter sets out the evidence that we have gathered, focusing on one product, motor legal cover, in particular. An extensive list of these ancillary products and their definitions can be found in Annex A.

### How ancillary products are sold

- 7.2 The submissions that we received from private motor insurers during the call for evidence indicated that four types of additional insurance cover (motor legal protection cover, courtesy car cover, breakdown cover and protected no claims cover) are commonly sold by private motor insurance companies. Other forms of additional cover, such as contents cover, key cover and windscreen cover, were often included as standard in insurers' private motor insurance policies.
- 7.3 It appears from responses to our call for evidence that, in some cases, consumers may have a restricted choice of where to purchase ancillary products from, as many private motor insurers only offer their ancillary products to their own motor insurance customers. Some insurers commented that ancillaries bought alongside a private motor insurance policy are intrinsically linked to the main motor insurance policy and are designed to be compatible and complimentary. There do, however, appear to be alternative providers of breakdown cover, key cover and motor legal protection cover available to drivers.
- 7.4 Based on the submissions provided, three of the four most commonly offered ancillary products (courtesy car cover, breakdown cover and protected no claims cover<sup>52</sup>) tend to be sold as 'opt-in' products that a

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<sup>52</sup> Of the insurers who responded to our call for evidence seven offered some form of courtesy car cover as a paid for ancillary product, 11 offered some form of breakdown cover as a paid for ancillary product and eight offered protected no claims cover as a paid for ancillary product. The

consumer can add to their existing private motor insurance cover. Motor legal protection cover tends to be included automatically in private motor insurance cover for an additional charge unless a consumer decides to 'opt-out'.<sup>53</sup>

## **Motor legal protection cover**

- 7.5 The evidence that we have gathered on motor legal protection cover raises concerns. Motor legal protection cover tends to cost consumers between £15 and £30 per annum and provides cover for additional losses that cannot be claimed back from any insurance policy. These losses may include loss of earnings or loss of excess after a no fault accident.
- 7.6 Several insurers described motor legal protection cover as their most popular ancillary product. Two insurers reported that between 70 and 75 per cent of their customers purchase motor legal protection cover alongside their main private motor insurance policy. Our analysis of policies suggests that insurers with at least 64 per cent of the market for private motor insurance offer motor legal protection cover as an ancillary product, as opposed to including it as standard on their main private motor insurance policy.
- 7.7 Our key concerns regarding motor legal protection cover are that the product's complexity and the way that it is being sold may make it difficult for consumers to make an assessment of the product's potential value for money, some consumers may not be fully aware that they can 'opt out' of buying the product, and that low claims ratios may indicate poor value for money for consumers. We note in this context that searches of complaint data held by Consumer Direct and the Financial

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other insurers who responded to our call for evidence included these features as standard on their motor insurance policies.

<sup>53</sup> Of the insurers who responded to our call for evidence seven offered motor legal protection cover as a paid for ancillary product. The other insurers who responded to our call for evidence included these features as standard on their motor insurance policies.

Ombudsman Service have not identified a substantial number of complaints.<sup>54</sup> However, we believe that the product's complexity, consumers' ability to understand the product's potential value and the relatively low price of the product may be contributing to the low number of complaints.

- 7.8 We are concerned that consumers may not fully understand motor legal protection cover products due to their apparent complexity. Motor legal protection cover only pays for a consumer's legal representation when claiming back their uninsured losses if the consumer's claim has a better than 50 per cent chance of winning.<sup>55</sup> We are also concerned that, in many cases, the judgement of whether the consumer can use their motor legal protection cover is made by the insurers themselves (and/or their appointed solicitors). A web search of eight major private motor insurers that sell motor legal protection cover as a separate ancillary product found that these limitations do not appear to be provided, or indeed flagged or explained, to consumers at point of sale. The consumer must read the detail of the terms and conditions of the motor legal protection policy itself to find this information.
- 7.9 Submissions received from private motor insurers as part of the call for evidence indicated that, generally, private motor insurers believe that consumers should have no problems in understanding motor legal protection cover. However, two insurers told us that there were potential problems in selling motor legal protection cover. One private motor insurer stated that customers might think it was a 'defensive' policy, protecting the customer from any costs that may be incurred if legal action were to be brought against them. The other private motor insurer stopped offering

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<sup>54</sup> A search of complaints made to Consumer Direct between 1 December 2010 and 30 November 2011 found 15 complaints. A search of a sample of complaints to the Financial Ombudsman Service found no complaints regarding motor legal protection cover for the period 1 January 2010 to 26 October 2011.

<sup>55</sup> This term, or an equivalent, was in all of the eight insurers' motor legal protection policies (across different brands) that we analysed during the period 3 August 2011 to 7 November 2011.

motor legal protection cover as an ancillary product due to the complex process of selling the product, particularly over the telephone. Both consumer groups and a trade body that responded to our call for evidence also stated that consumers not understanding the usefulness of the product was an area of concern.

7.10 Evidence gathered in a 2011 omnibus survey carried out by the OFT suggests that consumers may be purchasing the product without being aware that they can 'opt out.' Only nine per cent of respondents in Great Britain and one per cent of respondents in Northern Ireland stated that they had specifically added motor legal protection insurance to their policy, with 62 and 64 per cent of consumers in GB and NI, respectively, stating that motor legal protection cover was included as standard in their private motor insurance policy.<sup>56</sup> This does not appear to fit with evidence that we gathered indicating that only eight per cent of policies<sup>57</sup> have motor legal protection cover included as a standard offering.

7.11 The final concern raised by our call for evidence is the high profit margin that some motor insurers appear to be making on motor legal protection cover compared to standard private motor insurance policies and the provision of other ancillary products. In order to get an indication of the value for money offered by ancillary products, we gathered data from insurance companies on either the product's claims ratio<sup>58</sup> or the difference between the price of the product and the cost to the insurer of providing the product, which we converted into a combined ratio.<sup>59</sup> Three

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<sup>56</sup> Based on a sample of 431 respondents in Great Britain and 474 respondents in Northern Ireland, 2011 OFT omnibus survey.

<sup>57</sup> This is eight per cent of a sample that consists of 72 per cent of the market for private motor insurance (including motorcycle insurance - see footnote 12 for more details).

<sup>58</sup> A claims ratio is the total claims paid out divided by the total premium income collected. A claims ratio of 10 per cent therefore indicates that for every £1 taken in premium income the insurer pays out 10 pence in claims.

<sup>59</sup> An insurer's combined ratio is the combined claims and operating expenses as a percentage of premium income. Two insurers provided us with the difference between the price of the product

of the four submissions we received from private motor insurers indicated that combined ratios or claims ratios for motor legal protection cover were lower than for standard private motor insurance policies and the other ancillary products that we gathered evidence on. This could indicate that consumers are sometimes receiving poor value for money when purchasing motor legal protection cover. Of the insurers that provided the data that we converted into combined ratios, we calculated that, in 2010, one private motor insurers' combined ratio was 26 per cent and for the other it was 10 per cent. Of the two private motor insurers who provided us with claims ratio data for 2010, one stated that their claims ratio for motor legal protection cover was 7 per cent, although the other told us that their claims ratio was higher, at between 40 and 60 per cent. In addition, one private motor insurer that provided information told us that they sold motor legal protection cover to brokers for £3.50, indicating that private motor insurers could be making high profit margins when selling the product directly to consumers.

## Next steps

- 7.12 The OFT has concerns about the provision of motor legal protection cover to drivers and therefore calls upon the FSA to work with private motor insurers as soon as possible to ensure that drivers have access to appropriate information when purchasing this product. The OFT is concerned about the complexity of the product offering and that the way that it is being sold may make it difficult for consumers to assess the product's potential value for money. The FSA, as industry regulator, is best placed to take this action because it is able to use FSMA to ensure that consumers are being treated fairly when the product is sold. The FSA sets out its approach to FSMA in its *Insurance Conduct of Business Sourcebook*, which demands that insurers take reasonable steps to ensure

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and the cost to them of providing the product. From this information we were able to calculate the cost to the insurer of providing the product (as a proxy for the claims and operating expenses), and divided this by the price of the product (as a proxy for the premium income) to give a combined ratio figure.

that a customer is given appropriate information about an insurance policy.



## 8 PERSONAL INJURY CLAIMS

- 8.1 When we launched the call for evidence in September, we indicated that personal injury claims would not be a focus of our evidence gathering, since the Government was developing proposals which would have an impact on the costs of civil litigation in England and Wales. However, the majority of respondents to our call for evidence have stated that increases in the costs of personal injury claims to insurers are a major driver of rises in private motor insurance premiums and have commented on the likely impact of the Government's proposals on private motor insurers.
- 8.2 We have been informed by private motor insurers that the costs associated with personal injury claims have increased significantly between 2006 and 2011 (see chapter 4). Respondents have suggested that these increases in claims costs may have been driven by a number of related factors, such as:
- increases in the number of claims management companies (CMCs),
  - the payment of referral fees by CMCs and solicitors to private motor insurers and other market participants to identify potential claimants, and
  - increases in the number of claims for personal injury and, in particular, an increase in the number of fraudulent or exaggerated claims for soft tissue injuries such as whiplash.
- 8.3 Private motor insurers have suggested that there may be a correlation between the growing number of CMCs and increases in the number of personal injury claims. We have received evidence to show that there has been a 50 per cent increase in the number of companies offering claims management services in Great Britain between 2008 and 2009.<sup>60</sup> In

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<sup>60</sup> EMB Motor Insurance Industry Report, *Analysis of FSA Returns for UK Motor Business* as at 31 December 2009 at p 3. See: [www.emb.com/EMBDOTCOM/UK/2010-report.pdf](http://www.emb.com/EMBDOTCOM/UK/2010-report.pdf). The OFT notes that CMCs provide advice and assistance on a range of potential claims from criminal injuries compensation to employment matters and not just personal injury matters.

addition, the ABI and a number of insurers have pointed to the geographical similarities between the regions where there are higher concentrations of CMCs and higher numbers of personal injury claims.

- 8.4 We have also been informed that potential claimants are being more successfully identified and persuaded to claim by CMCs and personal injury lawyers. Respondents report that there is intense competition between private motor insurers, roadside assistance companies, credit vehicle hire companies and repairers to refer not-at-fault drivers to a CMC, accident management company or law firm following an accident, for which they can receive a referral fee of around £800.<sup>61</sup> A number of respondents raised concerns about these practices, including the sale of drivers' data,<sup>62</sup> and some consumers have reported receiving persistent marketing calls and messages regarding their entitlement to claim damages for personal injuries following road traffic accidents.<sup>63</sup>
- 8.5 A significant number of brokers and private motor insurers have stated that increases in the number of personal injury claims and, in particular, the number of fraudulent or exaggerated claims for injuries such as whiplash are key drivers of increases in the costs of handling personal injury claims. The Insurance Fraud Bureau<sup>64</sup> (IFB) estimates that fraudulent motor insurance claims cost the insurance industry around £350 million
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<sup>61</sup> The Legal Services Board Discussion Document on the Regulatory Treatment of Referral Fees, Referral Arrangements and Fee Sharing, September 2010 para 5.10. See: [www.legalservicesboard.org.uk/what\\_we\\_do/pdf/20100929\\_referral\\_fees.pdf](http://www.legalservicesboard.org.uk/what_we_do/pdf/20100929_referral_fees.pdf).

<sup>62</sup> We have heard this from a number of market participants including private motor insurers, brokers and price comparison sites. Some respondents expressed concern that this may be happening without the drivers' knowledge or informed consent, although such claims were not evidenced.

<sup>63</sup> Contact is being made either by companies cold calling to ask if individuals have been in a motor accident, or by text messages and e-mails encouraging them to claim for a motor accident, even when there is no reason to believe they have been involved in one.

<sup>64</sup> Established by the insurance industry in 2006 as a not for profit, industry funded organisation.

each year. The IFB estimates that there were over 30,000 fraudulent motor accident claims in 2009.<sup>65</sup> The ABI has estimated that approximately £40 of every private motor insurance premium paid goes towards meeting the costs of undetected fraud.<sup>66</sup>

- 8.6 The ABI has reported that the number of whiplash claims increased by 25 per cent from 2002 to 2008.<sup>67</sup> Respondents have stated that whiplash claims now account for around 70 per cent of all personal injury claims arising from road traffic accidents. Whiplash is a recognised medical condition, and the number of claims may be increasing as the number of more serious accidents is decreasing. However, some private motor insurers point to increases in the number of whiplash claims as evidence of increases in the number of exaggerated or fraudulent insurance claims. The OFT notes, in this context, that the ABI has stressed that further action is needed to help ensure that compensation is only paid to genuine whiplash sufferers.<sup>68</sup>

## Future action

- 8.7 On 21 June 2011, the MoJ's Legal Aid Sentencing and Punishment of Offenders Bill 2011 (The Bill) was introduced in the House of Commons. The Bill contains a number of measures implementing reforms to the funding of civil litigation in England and Wales proposed by Lord Justice

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<sup>65</sup> House of Commons Transport Committee, *The Cost of Motor Insurance*, Fourth Report of Session 2010-11 Volume I at p 118. See: [www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/591/591.pdf](http://www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/591/591.pdf).

<sup>66</sup> Nick Starling, Director of General Health and Insurance at the ABI, Oral Evidence to the House of Commons Transport Committee, *The Cost of Motor Insurance*, Fourth Report of Session 2010-11 Volume I at p 44. See footnote 65 above.

<sup>67</sup> *Tackling Whiplash: Prevention, Care, Compensation*, ABI 2008, p 3.

<sup>68</sup> See footnote 66 above.

Jackson.<sup>69</sup> The Bill proposes changes to the current system of conditional fee agreements to abolish the recoverability of success fees and after the event insurance premiums from the losing party to a dispute. The MoJ hopes that such measures will discourage fraudulent or exaggerated claims and ensure that both parties to a dispute are incentivised to minimise legal costs.<sup>70</sup> On 25 October 2011, the Government introduced an amendment to the Bill making the payment and receipt of referral fees in personal injury cases an offence, which will be enforced by regulators such as the Financial Services Authority and the Solicitor's Regulation Authority. The Bill is currently being debated in the House of Lords and is expected to receive royal assent in Spring 2012.

- 8.8 The private motor insurance industry supports a ban on referral fees in personal injury cases.<sup>71</sup> However, we note that private motor insurers and brokers believe that a ban on referral fees in personal injury cases will only be effective if it also covers the payment and receipt of referral fees at all levels of the accident management and accident vehicle repair industry.<sup>72</sup> Some respondents have indicated that the payment and receipt of referral fees is a symptom of an underlying problem in the market, namely that excess profits are being generated by law firms successfully pursuing personal injury claims in England and Wales. Many respondents have claimed that this is why law firms are able to afford to pay referral

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<sup>69</sup> [www.judiciary.gov.uk/NR/rdonlyres/8EB9F3F3-9C4A-4139-8A9356F09672EB6A/0/jacksonfinalreport140110.pdf](http://www.judiciary.gov.uk/NR/rdonlyres/8EB9F3F3-9C4A-4139-8A9356F09672EB6A/0/jacksonfinalreport140110.pdf).

<sup>70</sup> Proposed changes to conditional fee agreements will mean that costs and success fees will be paid out of the damages awarded to a successful claimant, and the level of general damages will be increased by 10 per cent to support this change.

<sup>71</sup> However, as far as the OFT is aware, only one private motor insurer, AXA, pre-empted the proposed ban by announcing in June 2011 that it would no longer accept referral fees in personal injury cases.

<sup>72</sup> This would include recovery and breakdown companies, the emergency services, credit vehicle hire organisations, vehicle repairers, accident management companies and the new alternative business structures (ABS).

fees,<sup>73</sup> and that a reduction in the fixed legal costs payable in personal injury claims together with the proposed ban on referral fees would therefore help to reduce costs. The OFT has reported these concerns to the MoJ.

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<sup>73</sup> Although other respondents have noted that the payment of referral fees is akin to spending money on targeted advertising to help generate business.

## 9 CREDIT VEHICLE HIRE AND INSURERS' REPAIRER NETWORKS

- 9.1 This chapter presents the key submissions received during our call for evidence regarding the interaction between private motor insurers and both credit vehicle hire and insurers' repairer networks and sets out the next steps we propose to take. We have considered both of these issues together because we have similar concerns about the way in which they impact the market for private motor insurance in the UK. We have heard that the increased cost of third party non-injury claims, which include both credit hire replacement vehicles and third party vehicle repairs, has had an impact on the price of premiums.

### Credit vehicle hire

- 9.2 Credit Hire Organisations (CHOs) provide replacement vehicles to not-at-fault drivers involved in motor accidents whilst the not-at-fault driver's own vehicle is being repaired or replaced. CHOs then seek to reclaim the hire costs directly from the at-fault driver's insurer. Submissions received from private motor insurers suggest that the five or six largest CHOs operating in the UK market<sup>74</sup> submit at least 70 per cent of the credit vehicle hire invoices they receive per annum.
- 9.3 The OFT decided to include credit vehicle hire within the scope of its call for evidence following concerns about the way that competition in relation to this aspect of the private motor insurance market was functioning.<sup>75</sup>

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<sup>74</sup> These include Drive Assist UK Limited, Helphire Group plc, Enterprise Rent-A-Car, Accident Exchange Group plc, Auto Indemnity UK Limited and ClaimFast Limited.

<sup>75</sup> See Lloyd's Market Association Submission to the House of Commons Transport Committee, The Cost of Motor Insurance, Fourth Report of Session 2010-11 Volume I at p 79. See [www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/591/591.pdf](http://www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/591/591.pdf). The OFT has previously considered the functioning of the credit hire market through its review of the Association of British Insurers' (ABI) General Terms of Agreement (GTA) in 2007: [www.of.gov.uk/OFTwork/competition-act-and-cartels/ca98/closure/ABI](http://www.of.gov.uk/OFTwork/competition-act-and-cartels/ca98/closure/ABI).

- 9.4 A number of private motor insurance companies have reported that credit vehicle hire costs have increased markedly over recent years. Submissions received from private motor insurers and brokers attribute these cost increases to:
- increased demand for credit vehicle hire from those involved in motor accidents, and
  - increases in the cost of individual credit vehicle hire claims.
- 9.5 Nine of the private motor insurance companies that responded to the call for evidence noted an increase in demand for credit hire vehicles. The submissions we have received indicate that the percentage of third party claims which included a credit vehicle hire element has increased from between 20 and 25 per cent in 2005 to between 46 per cent and 60 per cent in 2011.
- 9.6 Private motor insurers attribute this to increased consumer awareness of the availability of credit hire vehicles and to the payment of referral fees by CHOs to private motor insurers, brokers, recovery and breakdown companies, the emergency services and accident management companies in exchange for not-at-fault driver data.
- 9.7 From the submissions received, it appears that CHOs are paying referral fees of around £300 for the details of drivers involved in a motor accident that was not their fault. We have heard that many of these referrals come from private motor insurance companies. By referring potential credit vehicle hire customers, private motor insurers, brokers and others are able to earn additional revenues, while at the same time potentially inflating the claims costs that at fault drivers' insurers have to meet because claims that include credit hire vehicles tend to be more expensive than the alternative of a like-for-like replacement vehicle organised directly by an insurance company.
- 9.8 The average credit vehicle hire claim also appears to have increased markedly in recent years. According to one private motor insurer, the average cost of an individual credit vehicle hire claim has increased from £825 in 2005 to £1,568 in 2010. It also appears that the average cost of

a credit vehicle hire claim for a private motor insurer is significantly higher than providing a like-for-like replacement vehicle themselves. Private motor insurers have reported to us that, in 2010, the average cost of a credit hire replacement vehicle for a not-at-fault driver was between £1,200 and £1,500, compared to between £400 and £600 for a like-for-like replacement vehicle that they had organised directly.

9.9 Respondents have indicated that the factors that may be responsible for this difference in cost are:

- Credit vehicle hire agreements tend to run for longer than agreements for cars supplied by insurers directly. Insurers claim that their direct hires continue for 11-18 days compared to 17-31 days for a credit hire vehicle organised by a CHO.
- Credit vehicle hire rates appear to be higher than direct hire rates, even though CHOs and private motor insurance companies have agreed the General Terms of Agreement (GTA).<sup>76</sup> The GTA is a voluntary protocol subscribed to by most private motor insurers and CHOs which sets the maximum daily hire rates that CHOs can charge private motor insurers. Some submissions stated that the GTA is effective at controlling hire rates, particularly when compared to credit vehicle hire claims from CHOs who are not GTA signatories. However, we understand that one insurer has stopped subscribing to the GTA in recent years because the GTA has not been successful in managing credit vehicle hire costs.

9.10 Responses to the call for evidence suggest that private motor insurance companies responsible for meeting third party credit vehicle hire claims are only able to exercise limited control over those credit vehicle hire costs. Responses also suggest that rival private motor insurance companies and CHOs engage in practices which aim to generate additional revenues from these claims, whilst at the same time inflating the costs that rival insurers have to meet. Submissions received have

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<sup>76</sup> Respondents have estimated that GTA rates are between 20 per cent and 130 per cent higher than basic vehicle hire in some cases.



referred to the various practices set out above, including that insurance companies and brokers are being paid referral fees for referring third party claimants to CHOs, CHOs may be providing replacement vehicles to not-at-fault drivers unnecessarily and CHOs unnecessarily extending credit vehicle hire periods.

9.11 In response, in addition to subscribing to the GTA, private motor insurers appear to have attempted to improve their control of credit vehicle hire costs by:

- offering to arrange for a courtesy car to be provided to drivers with a potential credit hire claim against the private motor insurance company's at-fault driver either through their own approved repairer network or through their preferred car hire company, or
- entering into bilateral agreements with other private motor insurers whereby both insurers agree not to refer their insured drivers to CHOs where their insured policy holder is the not-at-fault party to a accident involving a policy holder of the other insurer.

## **Repair networks**

9.12 The OFT decided to look at private motor insurance companies' use of repair networks after receiving a steady stream of complaints<sup>77</sup> regarding the vehicle repairs sector over a number of years.

9.13 Respondents to the call for evidence, which included repairers operating outside insurers' networks, have raised concerns about the standard of repairs provided through these networks, although we have not received evidence to substantiate these claims.

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<sup>77</sup> Both the OFT and Consumer Direct received complaints from consumers, repairers and trade bodies active in the private motor insurance market on the use of approved repairer networks and the terms and conditions in network contracts.

- 9.14 Consumer groups have also expressed concerns that private motor insurance policy holders are being required to use their insurer's repair network rather than their own choice of local garage, and that some private motor insurers may be charging a financial penalty to those policy holders who use a repairer outside their private motor insurer's network.
- 9.15 Respondents to the call for evidence have also indicated that, in principle, approved panels result in more efficient vehicle repairs, as insurers should be able to control costs in the supply chain, keeping repair costs down, and ensure that repairers meet speed and quality assurance targets. However, the OFT has received some evidence to suggest that there are a number of activities being carried out by private motor insurers in relation to vehicle repairers that may be restricting and/or distorting competition and may be enabling private motor insurers to make revenues out of rival private motor insurers' third party claims, simultaneously inflating the costs that rival insurers have to meet. We have also received evidence that suggests that some accident management companies and vehicle manufacturers who operate panels of vehicle repairers are engaging in similar activities.
- 9.16 We have been informed that such an inflation of third party repair costs can happen in various ways:
- We have received evidence which suggests that certain private motor insurance companies, accident management companies and vehicle manufacturers mandate which paint and parts brands and distributors an approved repairer should use, and the price at which these should be sold to them. In exchange, the private motor insurer, accident management company or manufacturer receives a referral fee from those suppliers. We have also heard that the price of paint has increased significantly in recent years,<sup>78</sup> which may potentially be in part due to the use of such agreements.

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<sup>78</sup> According to data collected by Audatex, as reported in the Insurance Times, *Cashing in on subrogation*, 1 December 2011 at p16 the average cost of paint used in repair jobs has increased by 66.2 per cent between 2003 and 2011 from £148 to £246.

- We have received evidence which suggests that certain private motor insurance companies appear to mandate higher labour rates and/or higher average repair costs<sup>79</sup> for third party repairs which rival private motor insurance insurers are responsible for paying.
- We have heard that insurance companies, accident management companies and vehicle manufacturers are paid referral fees by repairers in their approved networks, but do not pass any such benefit on to the third party insurer. Further, such referral fees are not detailed on the repair invoice and are therefore not visible to a third party insurer who must meet the claim.
- We have heard that certain private motor insurers outsource third party repairs to credit repair agencies, which we have been told are significantly more expensive than an approved repairer, in exchange for a referral fee that again would not be visible to a third party insurer who would have to meet the claim.

9.17 In this context, we are also aware of court cases such as *Fallows v Harkers Transport* [2011] EW Misc 16 involving Royal Sun Alliance's use of its subsidiary, RSA Accident Repairs Limited to allegedly inflate third party repair costs.

9.18 We have been informed that many private motor insurance companies appear to be involved in these types of activities. Private motor insurers may have an individual incentive to do this in order to gain a competitive advantage over their rivals. The OFT is concerned that these market dynamics are driving inefficiencies in the UK private motor insurance market and suspects that these inefficiencies are contributing to higher premiums to the detriment of consumers in the UK.

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<sup>79</sup> Certain insurers set an average repair cost for their panels of repairers.

## Conclusions and next steps

9.19 The call for evidence has given us reasonable grounds to suspect that there are features of the market for private motor insurance in the UK which prevent, restrict or distort competition in connection with the supply or acquisition of private motor insurance.

9.20 For these purposes, the market for the supply of private motor insurance encompasses services provided by a number of different entities which impact on competition in the market for the supply of private motor insurance in the UK,<sup>80</sup> including:

- CHOs, repairers and other businesses providing services to drivers which have been involved in a motor accident,
- businesses that manage the provision of these services (such as accident management companies), and
- businesses that are involved in providing goods or services that are used by these providers and those who refer work to these providers.

9.21 Private motor insurance should be understood as insurance cover supplied to UK based non-commercial car drivers. The suppliers in question are firms regulated by the FSA under FSMA, which offer private motor insurance coverage against third party risks which is compulsory for those wishing to drive in the UK.<sup>81</sup> We have focused on the supply of car insurance and have excluded other forms of private motor insurance.

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<sup>80</sup> We have not reached any firm conclusions on the definition of any relevant economic markets at this stage in accordance with para 4.8-4.12 OFT 511 Market Investigation References: Guidance about the making of references under Part 4 of the Enterprise Act, 2006: [www.offt.gov.uk/shared\\_offt/business\\_leaflets/enterprise\\_act/oft511.pdf](http://www.offt.gov.uk/shared_offt/business_leaflets/enterprise_act/oft511.pdf).

<sup>81</sup> Pursuant to section 143 of the Road Traffic Act 1988 available at: [www.legislation.gov.uk/ukpga/1988/52/section/143](http://www.legislation.gov.uk/ukpga/1988/52/section/143).

9.22 Under Section 131 Enterprise Act 2002, the OFT may make a MIR to the Competition Commission where it has reasonable grounds for suspecting that any feature or combination of features of a market in the UK for goods or services prevents, restricts or distorts competition in connection with the supply or acquisition of any goods or services in the UK or a part of the UK. The information we have gathered during the course of the call for evidence on both credit vehicle hire and insurers' approved repairer networks gives us reasonable grounds for suspecting that there are features of the market for the supply of private motor insurance in the UK that are restricting and/or distorting competition.

9.23 The two key features that we have reasonable grounds for suspecting restrict and/or distort competition are:

- Private motor insurance companies responsible for meeting third party credit vehicle hire and/or repair claims appear to be able to exercise only limited control over the costs that they have to meet, in particular:
  - They appear to have no choice, and are able to exercise limited cost constraint, over who provides these services to the claimant.
  - There appear to be information asymmetries between the private motor insurer responsible for meeting the costs claimed and the private motor insurer, CHO and/or repairer involved in providing these services to the claimant. These information asymmetries seem to make it difficult for private motor insurance companies to understand the extent to which the costs claimed are reasonable and/or the services are genuinely required.
- Rival private motor insurance companies, brokers and CHOs have the opportunity, and the incentive, to exploit third party insurers' lack of control over costs by carrying out practices which allow them to generate additional revenues from these claims, whilst at the same time inflating the costs that rival insurers have to meet as described above.

- 9.24 Evidence gathered from private motor insurers indicates that third party non-injury related claims costs, which are made up of third party repairs and credit vehicle hire costs, have risen in recent years. According to estimates based on data from the Institute and Faculty of Actuaries, the average cost of the third party non-injury element of settled claims increased by about nine per cent per annum between 2006 and 2010<sup>82</sup> We estimate that in 2010, credit vehicle hire and third party repair costs together accounted for around 20 per cent of insurance claims costs, approximately £2 billion.<sup>83</sup>
- 9.25 Evidence received leads us to suspect that these features are increasing costs across the private motor insurance market in the UK, leading to consumer detriment by driving up private motor insurance premiums. For example, it is possible that some private motor insurers are able to generate higher revenues from these activities than some of their competitors as larger players may be able to leverage their greater purchasing power to negotiate bigger rebates and/or referral fees which are not passed on to consumers in the form of lower private motor insurance premiums. Further, the use of these practices may create inefficiencies which raise costs across the entire private motor insurance market.
- 9.26 On the basis of the evidence collected to date, however, the OFT has not yet reached a view as to whether it would provisionally exercise its discretion to make an MIR. In particular, it is not yet possible to conclude provisionally that the scale of the detriment is sufficient to justify making a MIR to the Competition Commission or whether other action by the OFT or others would be more appropriate. The OFT also needs to consider

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<sup>82</sup> The Actuarial Profession *Workshop F1: Third party motor - the journey continues. An update from the third party motor working party*. See: [www.actuaries.org.uk/research-and-resources/documents/workshop-f1-third-party-motor-journey-continues-update-third-party](http://www.actuaries.org.uk/research-and-resources/documents/workshop-f1-third-party-motor-journey-continues-update-third-party).

<sup>83</sup> Our internal analysis of costs as provided by seven insurers covering about 20 per cent of the market in 2010 appears to confirm this.

further the other criteria identified in its guidance in relation to the exercise of its discretion to make an MIR.<sup>84</sup>

- 9.27 The OFT therefore wishes to gather further evidence before it consults as to whether or not to make a reference to the Competition Commission. In order to do so, we propose to carry out a short market study,<sup>85</sup> which we aim to complete by spring 2012.

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<sup>84</sup> In accordance with para 2.1 of OFT 511 Market Investigation References: Guidance about the making of references under Part 4 of the Enterprise Act, 2006:  
[www.offt.gov.uk/shared\\_offt/business\\_leaflets/enterprise\\_act/oft511.pdf](http://www.offt.gov.uk/shared_offt/business_leaflets/enterprise_act/oft511.pdf).

<sup>85</sup> Further details about the OFT's approach to market studies is available on the OFT website:  
[www.offt.gov.uk/OFTwork/markets-work/](http://www.offt.gov.uk/OFTwork/markets-work/).

## A ANCILLARY PRODUCT DEFINITIONS

Definitions of ancillary products relevant to the OFT call for evidence on private motor insurance.

**Breakdown cover** - This provides roadside assistance if you break down and for recovery to the nearest garage if the vehicle cannot be repaired at the roadside. Additional levels of cover may also be available.

**Car contents cover** - This cover provides you with cover should certain personal possessions left in your vehicle be lost, stolen, or damaged.

**Courtesy car cover** - This cover provides a replacement car for a temporary period after an accident whilst your vehicle is being repaired.

**European cover** - This provides the same cover for driving in certain European countries as when you are in the UK.

**Handbag cover** - This provides cover for a handbag and its contents if stolen from your vehicle or damaged in an accident or fire involving your vehicle.

**Key cover** - This covers the cost of replacing keys or changing locks after the loss or theft of your vehicle keys.

**Motor legal protection cover** - This product offers cover that helps to pay legal fees in order to recover losses that cannot be claimed from any insurance policy.

**No claims discount cover** - This cover allows you to make a limited number of claims without losing the number of years you have built up on your no claims discount.

**Physiotherapy cover** - This cover provides the driver and passengers with access to a consultation and physiotherapy sessions for injuries sustained as a result of an accident involving your vehicle.



**Uninsured driver cover** - This cover protects you against an accident where an uninsured driver is at fault.

**Windscreen cover** - This covers the cost of repair or replacement of your car windscreen and windows if they get cracked or broken.

**Wrong fuel cover** - This product covers you for certain costs associated with mis-fuelling (accidental filling of the fuel tank with inappropriate fuel for the vehicle).

## **B PARTIES CONSULTED**

The OFT's call for evidence required extensive consultation with a wide range of interested parties. The project team met with and received information, submissions, statistical and anecdotal evidence from various parties. Parties consulted include, but are not limited to:

- 16 private motor insurers operating in the UK
- 13 private motor insurance brokers
- seven price comparison websites
- three credit vehicle hire organisations
- 32 vehicle repairers
- six trade bodies
- government departments
- regulatory bodies

## **C SUMMARY OF THE RESULTS OF THE CONSUMER OMNIBUS SURVEY**

### **Introduction**

- C.1. In September and October 2011 the OFT placed a number of questions in a consumer omnibus survey in order to help assess and evaluate consumer behaviour in the private motor insurance market and to help elicit any differences between consumers in Great Britain and Northern Ireland.

### **Methodology**

- C.2. Thirteen questions were placed on the Great Britain TNS-RI Face to Face Omnibus Survey and 14 questions were placed on the Northern Ireland Millward Brown Ulster Face to Face Omnibus Survey. The surveys interviewed 986 adults in Great Britain aged 16 and over, and 1002 adults in Northern Ireland aged 16 and over. The field work was conducted between 28 September 2011 and 2 October 2011 in Great Britain and between 3 October 2011 and 8 October 2011 in Northern Ireland.
- C.3. The sample was subject to quota controls designed to deliver a demographic profile close to that of the general population. Final results were weighted in order to ensure representativeness in terms of known population data on age, sex, social grade and region.
- C.4. One important effect of weighting is that results cannot be relied upon to sum to integer values. The figures given below have been rounded to the nearest integer, and therefore some of the percentage calculations and total figures will not appear to match precisely the response figures. While this appears unusual it does not invalidate estimates and does not indicate analytical or computational errors. In any event, all results arising from the survey are estimates subject to sampling errors and in cases where evidence relies on small numbers of observations, the sampling errors are proportionately large or in some cases, very large.

## Questions and results

### Q.1 Do you have car insurance?

|            | Great Britain |          | Northern Ireland |          |
|------------|---------------|----------|------------------|----------|
|            | Responses     | Per cent | Responses        | Per cent |
| Yes        | 572           | 57%      | 647              | 65%      |
| No         | 425           | 43%      | 355              | 35%      |
| Don't know | 2             | 0%       | 0                | 0%       |

Base: all respondents.

### Q.2 Did you arrange your last car insurance policy?

|            | Great Britain |          | Northern Ireland |          |
|------------|---------------|----------|------------------|----------|
|            | Responses     | Per cent | Responses        | Per cent |
| Yes        | 441           | 77%      | 491              | 76%      |
| No         | 131           | 23%      | 157              | 24%      |
| Don't know | 1             | 0%       | 0                | 0%       |

Base: all who have car insurance.

### Q.3 Who is your current car insurance provider?

| Insurer            | Responses | Per cent |
|--------------------|-----------|----------|
| AXA                | 84        | 17%      |
| Hughes             | 80        | 16%      |
| Abbey              | 37        | 7%       |
| Open and Direct    | 35        | 7%       |
| Allianz            | 22        | 5%       |
| Quinn              | 21        | 4%       |
| Alliance           | 15        | 3%       |
| Direct Line        | 14        | 3%       |
| Farmers' Union     | 12        | 2%       |
| Zurich             | 10        | 2%       |
| Prestige           | 10        | 2%       |
| NFU                | 10        | 2%       |
| Aviva              | 9         | 2%       |
| Post Office        | 9         | 2%       |
| Marks and Spencer  | 7         | 1%       |
| AA                 | 6         | 1%       |
| Endsleigh          | 6         | 1%       |
| Elephant           | 6         | 1%       |
| McGrady            | 4         | 1%       |
| Caulfields         | 4         | 1%       |
| Use a broker       | 4         | 1%       |
| Royal insurance    | 3         | 1%       |
| Tesco              | 3         | 1%       |
| Oakland            | 3         | 1%       |
| First Direct       | 2         | 0%       |
| Eagle Star         | 2         | 0%       |
| Agnew              | 2         | 0%       |
| Allade             | 2         | 0%       |
| Liverpool Victoria | 2         | 0%       |
| Ansley             | 2         | 0%       |
| Cornhill           | 2         | 0%       |
| Davis              | 2         | 0%       |
| Easysure           | 2         | 0%       |
| AAG Northstar      | 2         | 0%       |
| Legal & General    | 2         | 0%       |
| Autoline           | 2         | 0%       |
| FBI                | 2         | 0%       |
| Admiral            | 1         | 0%       |

|                             |    |    |
|-----------------------------|----|----|
| CIP                         | 1  | 0% |
| Erne Insurance              | 1  | 0% |
| W. Todd                     | 1  | 0% |
| Budget                      | 1  | 0% |
| Motability                  | 1  | 0% |
| Women for you               | 1  | 0% |
| Diamond                     | 1  | 0% |
| Churchill                   | 1  | 0% |
| Ulster Bank                 | 1  | 0% |
| Egon                        | 1  | 0% |
| Royal Sun Alliance          | 1  | 0% |
| Fortis                      | 1  | 0% |
| More Than                   | 1  | 0% |
| McClarty                    | 1  | 0% |
| ING                         | 1  | 0% |
| Prudential                  | 1  | 0% |
| Insurance Matters           | 1  | 0% |
| IAM                         | 1  | 0% |
| Higgins                     | 1  | 0% |
| AVA                         | 1  | 0% |
| Barclays                    | 1  | 0% |
| Kerr's                      | 1  | 0% |
| Wallace and Dickson         | 1  | 0% |
| Easy Insurance              | 1  | 0% |
| Lunns                       | 1  | 0% |
| Country Life                | 1  | 0% |
| McWhitter                   | 1  | 0% |
| Red Star                    | 1  | 0% |
| Peter McAleer               | 1  | 0% |
| Sunlife                     | 1  | 0% |
| Baileys                     | 1  | 0% |
| Don't know / Can't remember | 23 | 5% |

Base: all Northern Ireland respondents who arranged their last car insurance policy.

#### Q.4 Does your current car insurance policy include the following features?

##### Respondents in Great Britain:

|                                       | Courtesy car cover |          | Motor legal protection cover |          | No claims discount cover |          | Uninsured driver cover |          |
|---------------------------------------|--------------------|----------|------------------------------|----------|--------------------------|----------|------------------------|----------|
|                                       | Responses          | Per cent | Responses                    | Per cent | Responses                | Per cent | Responses              | Per cent |
| No, it is not part of my policy       | 88                 | 20%      | 68                           | 15%      | 45                       | 10%      | 129                    | 29%      |
| Yes, it was included in my policy     | 279                | 63%      | 273                          | 62%      | 332                      | 75%      | 149                    | 34%      |
| Yes, I decided to add it to my policy | 25                 | 6%       | 39                           | 9%       | 45                       | 10%      | 18                     | 4%       |
| Don't know if it is included          | 45                 | 10%      | 48                           | 11%      | 16                       | 4%       | 133                    | 30%      |
| Can't remember                        | 4                  | 1%       | 12                           | 3%       | 3                        | 1%       | 12                     | 3%       |

Base: all Great Britain respondents who arranged their last car insurance policy.

### Respondents in Northern Ireland:

|                                       | Courtesy car cover |          | Motor legal protection cover |          | No claims discount cover |          | Uninsured driver cover |          |
|---------------------------------------|--------------------|----------|------------------------------|----------|--------------------------|----------|------------------------|----------|
|                                       | Responses          | Per cent | Responses                    | Per cent | Responses                | Per cent | Responses              | Per cent |
| No, it is not part of my policy       | 49                 | 10%      | 40                           | 8%       | 36                       | 7%       | 82                     | 17%      |
| Yes, it was included in my policy     | 311                | 63%      | 315                          | 64%      | 410                      | 84%      | 173                    | 35%      |
| Yes, I decided to add it to my policy | 25                 | 5%       | 6                            | 1%       | 9                        | 2%       | 9                      | 2%       |
| Don't know if it is included          | 95                 | 19%      | 117                          | 24%      | 30                       | 6%       | 210                    | 43%      |
| Can't remember                        | 10                 | 2%       | 13                           | 3%       | 5                        | 1%       | 16                     | 3%       |

Base: all Northern Ireland respondents who arranged their last car insurance policy.



**Q.5 How did you pay for your current car insurance policy?**

|                     | Great Britain |          | Northern Ireland |          |
|---------------------|---------------|----------|------------------|----------|
|                     | Responses     | Per cent | Responses        | Per cent |
| One upfront payment | 234           | 53%      | 263              | 54%      |
| Monthly instalments | 205           | 47%      | 225              | 46%      |
| Don't know          | 1             | 0%       | 2                | 0%       |

Base: all who arranged their last car insurance policy

**Q.6 Did you have car insurance last year?**

|            | Great Britain |          | Northern Ireland |          |
|------------|---------------|----------|------------------|----------|
|            | Responses     | Per cent | Responses        | Per cent |
| Yes        | 410           | 93%      | 476              | 97%      |
| No         | 30            | 7%       | 15               | 3%       |
| Don't know | 0             | 0%       | 0                | 0%       |

Base: all who arranged their last car insurance policy

**Q.7 When you received your last renewal quote did you seek quotes from other insurers?**

|            | Great Britain |          | Northern Ireland |          |
|------------|---------------|----------|------------------|----------|
|            | Responses     | Per cent | Responses        | Per cent |
| Yes        | 300           | 73%      | 256              | 54%      |
| No         | 109           | 26%      | 219              | 46%      |
| Don't know | 1             | 0%       | 1                | 0%       |

Base: all who had car insurance last year

**Q.8 Did you use a price comparison website when shopping for car insurance?**

|            | Great Britain |          | Northern Ireland |          |
|------------|---------------|----------|------------------|----------|
|            | Responses     | Per cent | Responses        | Per cent |
| Yes        | 239           | 72%      | 149              | 55%      |
| No         | 90            | 27%      | 120              | 44%      |
| Don't know | 1             | 0%       | 1                | 1%       |

Base: all who sought quotes from other insurers when they received their last renewal or all who did not have insurance last year

**Q.9 You said that you used a price comparison website. How many price comparison websites did you use when shopping around?**

|             | Great Britain |          | Northern Ireland |          |
|-------------|---------------|----------|------------------|----------|
|             | Responses     | Per cent | Responses        | Per cent |
| 1           | 89            | 37%      | 51               | 34%      |
| 2           | 71            | 29%      | 52               | 35%      |
| 3           | 30            | 13%      | 21               | 14%      |
| More than 3 | 45            | 19%      | 23               | 15%      |
| Don't know  | 4             | 2%       | 3                | 2%       |

Base: all who used a price comparison site

**Q.10 Did you use any of the following methods when getting a quote for your current policy?**

|   | Great Britain |          | Northern Ireland |          |
|---|---------------|----------|------------------|----------|
|   | Responses     | Per cent | Responses        | Per cent |
| Internet: quote direct from insurer         | 177           | 54%      | 128              | 47%      |
| Telephone call to an insurer or broker      | 131           | 40%      | 170              | 63%      |
| In branch (bank/ building society / broker) | 13            | 4%       | 37               | 14%      |
| Unsolicited quote or offer to quote         | 8             | 2%       | 1                | 0%       |
| Other                                       | 8             | 2%       | 6                | 2%       |
| Don't know                                  | 47            | 14%      | 5                | 2%       |

Base: all who sought quotes from other insurers when they received their last renewal or all who did not have car insurance last year. Respondents could select multiple options.

**Q.11 Approximately how many quotes from different insurers did you obtain?**

|            | Great Britain |          | Northern Ireland |          |
|------------|---------------|----------|------------------|----------|
|            | Responses     | Per cent | Responses        | Per cent |
| 0          | 53            | 16%      | 38               | 14%      |
| 1          | 37            | 11%      | 32               | 12%      |
| 2          | 27            | 8%       | 40               | 15%      |
| 3          | 68            | 20%      | 76               | 28%      |
| 4          | 39            | 12%      | 34               | 13%      |
| 5          | 19            | 6%       | 24               | 9%       |
| 6-10       | 29            | 9%       | 21               | 8%       |
| 11 or more | 26            | 8%       | 7                | 3%       |
| Don't know | 32            | 10%      | 0                | 0%       |

Base: all who sought quotes from other insurers when they received their last renewal or all who did not have car insurance last year

**Q.12 After shopping around did you...**

|                                  | Great Britain |          | Northern Ireland |          |
|----------------------------------|---------------|----------|------------------|----------|
|                                  | Responses     | Per cent | Responses        | Per cent |
| Switch Insurers?                 | 136           | 45%      | 84               | 33%      |
| Stay with your previous insurer? | 160           | 53%      | 170              | 66%      |
| Can't remember                   | 4             | 1%       | 2                | 1%       |

Base: all who had car insurance last year and sought quotes from other insurers

### Q.13 Why did you switch insurers?

|                                 | Great Britain |          | Northern Ireland |          |
|---------------------------------|---------------|----------|------------------|----------|
|                                 | Responses     | Per cent | Responses        | Per cent |
| Better reputation               | 2             | 2%       | 3                | 3%       |
| Free additional cover           | 8             | 6%       | 3                | 3%       |
| Cheaper quote                   | 132           | 97%      | 82               | 97%      |
| More helpful and friendly staff | 5             | 4%       | 1                | 1%       |
| Other                           | 2             | 2%       | 3                | 3%       |
| Don't know                      | 0             | 0%       | 0                | 0%       |

Base: all who switched insurers. Respondents could select multiple options.

**Q.14 When staying with your current insurer did you.....?**

|  | Great Britain |          | Northern Ireland |          |
|--|---------------|----------|------------------|----------|
|  | Responses     | Per cent | Responses        | Per cent |
| Renegotiate a cheaper quote with your insurer? | 89            | 33%      | 224              | 58%      |
| Pay the renewal quote offered by your insurer? | 179           | 66%      | 160              | 41%      |
| Don't know                                     | 1             | 0%       | 5                | 1%       |

Base: all who stayed with their previous insurer (either those who did not shop around or those who did shop around but stayed with their insurer).