

PRIVATE MOTOR INSURANCE MARKET INVESTIGATION

Revised Notice of the Competition and Markets Authority which notifies parties that it will operate a confidentiality ring to allow review of data and calculations carried out by the Competition and Markets Authority in support of its analysis

On 12 June 2014, the Competition and Markets Authority (CMA) published a Notice of its intention to operate a confidentiality ring to allow review of data and calculations carried out by the Competition and Markets Authority in connection with its investigation into Private Motor Insurance (PMI) in support of its analysis concerning the estimation of consumer detriment in relation to Theory of Harm 1 (ToH1).¹

Parties were invited to comment on the scope of, and/or process for, disclosure, by **Tuesday 17 June 2014 at 5pm** with appropriate supporting explanations and reasons so that we would be able to consider such representations properly. The consultation period in relation to the scope of and process for disclosure is now closed.

In light of the representations that were received from certain parties, the scope for disclosure has been amended. Please refer to the section below entitled 'Scope of Disclosure', which sets out the data and calculations that the CMA will disclose in light of those representations by way of a confidentiality ring, in anonymised form.

Background:

As part of the investigation into PMI, the CMA, which took over the investigation at the start of April 2014 from the Competition Commission (CC), has acquired information from a number of parties.

¹ Under ToH 1, discussed in Section 6 of our [report](#), the CMA provisionally identified the following two features of the supply of motor insurance and related services which have, in combination, an AEC: (a) separation – that is, that the insurer liable for the non-fault driver's claim as insurer to the at-fault driver is often not the party controlling the costs and (b) various practices and conduct of the other parties managing such non-fault drivers' claims which (i) were focused on earning a rent from control of claims rather than competing on the merits; and (ii) gave rise to an inefficient supply chain involving excessive frictional and transactional costs. We provisionally concluded that these features distorted competition in the motor insurance market. 'Working Paper 23: Estimation of the detriment from the separation of cost liability and cost control (ToH 1)' revises the calculation set out in section 6 of our [report](#) by updating some underlying data and by making certain adjustments in order to reflect comments made by parties in responses to our [report](#).

Pursuant to section 241 of the Act, the CMA may disclose specified information for the purposes of facilitating the exercise by it of its statutory functions.

Scope of Disclosure:

To provide parties with an opportunity to respond fully to the CMA analysis, the CMA will disclose the following, by way of a confidentiality ring, in anonymised form:

- the calculations underlying Table 10 and paragraph 115 of WP 23, relating to the comparison of credit hire daily rates and insurer direct hire daily rates, as well as the calculations underlying our estimation of the average cost difference between credit hire and direct hire at paragraph 117;
- the calculations underlying Appendices E and G of WP 23, relating to our estimation of the net effect of the separation of cost liability and cost control on insurers' costs and to the sensitivity analysis we have undertaken;
- Tables 2 and 4 of WP 23, relating to the frequency of major extras taken with credit hire;
- the data on the effect of 'bracketing', or 'category matching', relevant to Appendix G to WP 23;
- paragraph 76 of WP 23, relating to whether there is any cross-subsidisation between credit and direct hire;
- the aggregated market shares of insurers in our sample which have bilateral agreements, and which were used for the purposes of Tables 8 and 9 of WP 23, relating to whether the presence of credit hire companies has any impact on the frequency of resolution of liability (Table 8) and to the proportion of non-fault claimants receiving a replacement vehicle (Table 9);
- the sales data and advertising spend from certain providers, which was used to analyse the efficacy of advertising spend off PCWs and on PCWs in acquiring customers, relevant to paragraph 11 of Appendix 4.2 of the PDR report and paragraphs 3-7 of Annex A to Appendix 4.2 of the PDR report;
- the data in paragraph 11 of Appendix 4.2 of the PDR report on the estimate of policies sold through PCWs being affected by narrow MFNs; (together 'the information').

For the avoidance of doubt, 'anonymised' means that the identities of the parties to which the data refers will be redacted.

Process for Disclosure:

In order to safeguard the confidentiality of the information, and in line with usual confidentiality ring procedures, those persons to whom disclosure is being made (as well as the advisory firms for which they act) will be required to sign confidentiality undertakings. Access to the confidentiality ring will be limited to the external legal and/or economic advisers (the external advisers) designated for this purpose by the parties. The CMA retains the right to limit the number of external advisers for each party.

The information will be made available by the CMA on Monday 23 June 2014 until Friday 4 July 2014, at which point it will no longer be available. It is currently planned that external advisers will be given the opportunity to make submissions in relation to the information until Friday 4 July 2014 at which point the external advisers must destroy any documents incorporating it (other than documents which have been submitted to the CMA). However, if external advisers attending the virtual dataroom provide relevant reasons justifying a request to extend the period for additional submissions in relation to the data, the CMA will consider them.

Please register your interest in entering the confidentiality ring as soon as possible, and by no later than **Wednesday 2 July 2014 at 5pm**. When registering a confirmation of your interest, please explain the basis of your interest in gaining access to the information as well as the name and role of those for whom access is requested (ie their name, job title and firm of each external adviser). Confidentiality undertakings will be sent to those who register an interest.

Alasdair Smith

Chairman of the PMI group and CMA Deputy Panel Chair

25 June 2014