

PRIVATE MOTOR INSURANCE MARKET INVESTIGATION

Notice of the Competition and Markets Authority's intention to operate a confidentiality ring to allow review of data and calculations carried out by the Competition and Markets Authority in support of its analysis

As part of the investigation into Private Motor Insurance (PMI), the Competition and Markets Authority (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 which it has used to calculate an estimation of consumer detriment under Theory of Harm 1 (ToH 1).¹

An estimation of consumer detriment was set out in the CC's provisional findings report (the [report](#)). Certain information and calculations were redacted from the report and several parties requested the disclosure of data and calculation files underlying the analysis under ToH 1. In February 2014 the CC granted access to some of this information by way of a confidentiality ring to parties which had demonstrated a relevant interest.

Having reviewed parties' responses to the report and new evidence submitted to it, the CMA has revised its estimation of consumer detriment, which is set out in Working Paper 23 – Estimation of the detriment from the separation of cost liability and cost control (ToH 1) (WP 23). Certain information and calculations were redacted from WP 23. This information is specified information within the meaning of section 238 of the Enterprise Act 2002 (the Act) which relates to the business of undertakings and therefore falls within the general restriction of its disclosure pursuant to section 237 of the Act.

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. In view of the highly technical nature of this information, and to provide parties with an opportunity

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](#).

to respond fully to the CMA analysis, the CMA is proposing to disclose the following, by way of a confidentiality ring, in anonymised form:

- the data and 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 data and calculations underlying the estimation of the average cost difference between credit hire and direct hire in paragraph 117 of WP 23
- the data and calculations underlying Appendices E and G of WP 23, relating to the estimation of the net effect of the separation of cost liability and cost control on insurers' costs and to the sensitivity analysis

(together 'the data').

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

The data will be provided in Excel spreadsheet format.

In order to safeguard the confidentiality of the material contained in the data, 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. We propose that access to the confidentiality ring 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 data will be made available by the CMA on Monday 23 June 2014 until Friday 4 July 2014, at which point the data will no longer be available. It is currently planned that external advisers will be given the opportunity to make submissions in relation to the data until Friday 4 July 2014 at which point the external advisers must destroy any documents incorporating the data (other than documents which have been submitted to the CMA). However, if external advisers attending the data room provide relevant reasons justifying a request to extend the period for additional submissions in relation to the data, the CMA will consider extending this period.

Please register your interest in entering the confidentiality ring as soon as possible, and 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 this 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). Draft confidentiality undertakings will be sent to those who register an interest.

If you wish to comment on the scope of, and/or process for, disclosure, please ensure that any comments are sent by **Tuesday 17 June 2014 at 5pm** to the private

motor insurance investigation team at PMI@cma.gsi.gov.uk, and that such comments are supported by appropriate explanation and reasons so that we are able to consider such representations properly.

Confidentiality undertakings will be sent to parties' external advisers from **Thursday 19 June 2014** for signing before being entered into the confidentiality ring.

Alasdair Smith

Chairman of the PMI group and CMA Deputy Panel Chair

12 June 2014