Competition & Markets Authority

Private Motor Insurance Market Investigation

LV= Response to Notice of Further Consultations on Remedy 1C

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About LV=

LV= is the UK's largest friendly society and a leading financial mutual. We employ 5,800 people and serve over 5.5 million customers with a range of financial products. Our most significant business line remains car insurance and we are the third largest private motor insurer in the UK with around 13% market share, based on the number of vehicles insured.

Overview

LV= welcomes the alternative approach required to implement Remedy 1C as outlined in the original CMA PDR. To reiterate our initial response to proposed remedies, LV= believe any Temporary Replacement Vehicle (TRV) rates implemented should be levied at the most appropriate direct hire rate available, and that any rate is inclusive of all additional charges, in addition to described administration fee, that may be sought by a Temporary Replacement Vehicle (TRV) provider.

LV= believes that, if implemented correctly, including guidance within the Judicial system, along with ongoing controls managing the structure, then Remedy 1C would be an effective way of reducing the excessive rates charged by temporary replacement vehicle (TRV) providers using credit hire agreements and would not lead to any new distortion.

LV= believe that there is a requirement for the CMA to consider the effects that if 1C is not introduced whilst continuing with the other remedies and restricting the scope to private motor, instead of motor, that this may increase administrative costs to insurers and have an adverse effect on claims handling overall, causing further friction, causing an imbalance in the overall effect the CMA have sought to deliver.

The CMA have stated that the alternative approach would not apply to non-fault insurers as, in such cases, there is no charge for the temporary vehicle provided. LV= would like to take this opportunity to advise that this is not always the case and that all insurers should look to abide by any new rate set for temporary replacement vehicle (TRV) and should not seek to recover more than these sums. By abiding by this practise the customer's tortious rights are not affected and the at-fault insurer defending any costs presented by the non-fault insurer should reject any claim above the new rates, therefore making the process self-managing.

To not introduce Remedy 1C would only reinforce the existing practise of CHCs to seek excessive temporary replacement vehicle (TRV) charges. If the CMA were to in fact encourage the GTA to implement parts of the remedies and to look to reduce rates within the GTA to those lower than some insurers have achieved through insurer to CHC bilaterals, then this would be a massive shortfall from the potential this change to the industry could achieve. It remains a fact that the GTA is a voluntary organisation and to not address the industry as a whole will drive existing members away from the GTA into a more costly structure.

Insurer to CHC bilaterals are effective in driving down cost between both parties, whilst improving processes to reduce frictional handling and hire periods, however, if the cost of Temporary Replacement Vehicle (TRV) is not addressed, then insurer to CHC profit share models and excessive referral fees will always be more inviting than signing single agreements with each insurers and LV= look to the CMA that should they consider this alternative that they consider whether insurers should be allowed to come together in a multilateral agreement.

Answers to specific questions:

(a) This alternative approach would be an effective way in which to implement Remedy 1C?

1. LV= believes the alternative approach proposed by the CMA would be an effective way to implement Remedy 1C. LV= encourages the CMA to set the final rates at the appropriate direct hire rate and that any rate, and administration charge, includes all additional fees/charges to deliver cost control.

(b) The remedy would create distortions between the provision of temporary replacement vehicles to non-fault claimants and the provision of hire vehicles to retails customers?

2. LV= encourage the CMA to ensure that CHCs understand that Non-fault claimants are treated by Temporary Replacement Vehicle (TRV) providers as a separate and distinct being from customers of a retail nature and do not limit the retail customers choice, or force retail customers into the payment of greater costs, by reiterating that Remedy 1C is the maximum rate a CHC can charge for a motor accident related hire.

(c) The definition in paragraph 18 would capture effectively the provision of credit hire vehicles to non-fault claimants or whether there are any further circumvention risks from this proposed wording?

3. The wording proposed should be reviewed by the CMA's legal expert to ensure it is achieving the CMA's aims. However, LV= believe the definitions in 18 needs to be as wide as possible to encompass all entities involved the in the supply chain, including but limited to: Solicitors, Insurers, Repairers, Manufacturers, Roadside Recovery, Accident Management Companies etc.

(d) The remedy would create distortions between CHC/CMC provision and non-fault insurer provision of temporary replacement vehicles?

4. As stated LV= recommend that Remedy 1C is a market wide recognised rate for the provision of a Temporary Replacement Vehicle (TRV) in order to discourage those detailed in the recommended paragraphs within 18 above, to seek to recover a market rate which may be higher and it is not just limited to insurers.

(e) The courts would be likely to limit the sums recoverable in subrogated claims to the rate cap set by the CMA on the basis that this indicates the reasonable cost, or, if not, whether the cap for CHC/CMC provision would have to be set at a level which aligned with that currently allowed by the courts for subrogated claims for temporary replacement vehicles; and whether a dual-rate cap would create greater ambiguity for the courts in these circumstances?

5. Under the alternative proposal the rate cap would be incorporated in to the contract between the Temporary Replacement Vehicle (TRV) provider and the customer. This would limit the sums recoverable because the rates would be set out in the contract and that would be the rate which determines the claimant's liability.
6. In the case where a non-fault insurer seeks recovery from the at-fault insurer then enforcement and monitoring of such a remedy would be self-policing in that the fault insurer could identify and reject any claim which seeks to recover more than the capped rate.
7. The Court may choose not to consider the rate caps at all when assessing the claimant's entitlement to damages, so it is recommended the CMA provide guidance to the Courts and that the rates are CMA approved. The Judicial system is used to frameworks being provided to help in the assessment of damages.

(f) Whether the remedy might be expected to lead to greater provision of temporary replacement vehicles by non-fault insurers under the terms of individuals' insurance policies, and the benefits and costs of this greater provision if it occurred?

8. An insurer should not discourage the non-fault claimant if they believe that any courtesy car entitlement is sufficient for their needs, or that the non-fault claimant does not in fact need a vehicle at all, therefore, provision should not change as a result of this remedy.
9. If the rates proposed by the CMA apply to insurers, and insurers are discouraged from recovering at greater sums, then the provision of temporary replacement vehicles should not increase.
10. In relation to benefits, if insurers provide for Temporary Replacement Vehicles (TRV) or are party to bilateral arrangements, and the Temporary Replacement Vehicle (TRV) is managed internally, alongside the repair/total loss claims journey for the non-fault claimant, the period of hire is better controlled.

(g) Whether this alternative approach creates any other unintended consequences, costs or benefits from those already expressed?

11. LV= believes that this alternative proposal is the right way forward and Remedy 1C need to be introduced, but in doing so in the right way, with the widest possible scope, it does not create any unintended consequences in addition to those that have already been identified in relation to the original proposal.