6 February 2015

Mr Peter Baker
Competitions and Markets Authority
Victoria House
Southampton Row
WC1B 4AD

Dear Peter

BIBA Response to CMA Private Motor Insurance Investigation Draft Order – Consultation 2015

The British Insurance Brokers' Association (BIBA) is the UK's leading general insurance intermediary organisation representing the interests of insurance brokers, intermediaries and their customers.

BIBA membership includes just under 2,000 regulated firms, who employ more than 100,000 staff. General insurance brokers contribute 1% of GDP to the UK economy, they arrange 54% of all general insurance and 79% of all commercial insurance business. Insurance brokers put the client's interests first, providing advice, access to suitable insurance protection and risk management.

Executive Summary

BIBA acknowledge the need to provide information to assist customers in understanding and assessing the value of NCD protection. But our concerns below could lead some brokers to stop selling NCD protection and distort competition as they cannot comply with the timescales.

Timescales – BIBA has consulted widely with members and software houses on this issue and the timescales for implementation of the NCB Protection Information Requirements are unachievable for BIBA members. BIBA therefore calls for the CMA to allow a 16 month timeframe for the industry to implement the provisions.

Monitoring and reporting of PMI Providers – BIBA calls for reporting to be provided to the FCA alongside other regulatory reporting, rather than separate reporting to the CMA.

Insurance Brokers already provide 6 monthly reporting to the FCA via the RMAR (or 3 monthly in the case of larger brokers) and BIBA consider that the reporting from the Order should be included within Section I Product Sales Data of the RMAR.

This Government launched a 'Red Tape Challenge' and we consider that reporting to the FCA will reduce the additional burden, cost and bureaucracy of dealing with multiple regulators. The CMA can still access the data from the FCA.

The ABI also support reporting to the FCA.

Information to customers - Prescriptive Regulation

BIBA is also concerned that the wording laid down by the CMA for the NCB Protection Statement is prescriptive and moves away from the FCA 'principles based' regulation. We have included recommendations in this response.

BIBA is concerned about the ever increasing requirements to give customers more and more information which often results in them being less inclined to read it. We refer to the speech made by Gabriel Bernardino, Chairman of EIOPA, the European super regulator, on the 19th November 2014 where he said

"A balance needs to be struck on the amount of information given and on the capacity of customers to digest and use appropriately that information. Too much information kills information."

Level Playing Field - BIBA consider the continued existence of 'Narrow MFNs' are anti-competitive to the detriment of the consumer. We also call for all PCW's to be fully embraced by the order in respect of reporting and monitoring.

Timescales

The insurance industry has already expressed its concern at the timescale of 1/9/2015 for the implementation to the NCB Protection remedy to be unachievable and this was evidenced by both the opening statements of BIBA and the ABI at the meeting on 21/1/2015. This was also backed up by Direct Line who said 'the draft timescale is very challenging for a direct insurer'.

These are extensive changes required by the CMA involving changes to insurer systems, changes to broker systems made by software houses and changes to broker systems made by brokers.

It is not clear when this information will be made available by insurers to brokers and, in particular, when the information will be made available in a format which will enable it to be compatible with their systems.

BIBA has consulted with our members who transact Motor Insurance in relation to how they will handle the implementation of the CMA NCB Protection Remedy requirement and the vast majority of members surveyed confirmed that they were wholly reliant on their 'software houses in order to be able to comply with the order.

The majority of motor insurance brokers are reliant on software houses (such as CDL, SSP, OGI, Acturis, Applied Systems, Datamatters, Transactor etc.) for the provision of motor insurance (including products, rates information, transmission etc).

75% of BIBA's brokers have less than 10 staff and their only option is to use a commercially available software house.

A few larger brokers may have their own bespoke arrangements, but the majority of brokers beyond the large brands will have contracts with software houses for the provision of motor insurers rates.

The Insurance Industry's Electronic Trading Practices Group (ETPG) has put together a working party to consider the draft order, their main concern is the unachievable timescale.

The ETPG are run by Polaris, who are the organisation who develop the industry's e-trading standards that are used by most insurers/software houses for the majority of brokers based products, (please see the attached letter describing their industry role). Polaris/ETPG are in the most informed position to be able to advise on timescales. They have stated that it is likely to take up to 16 months for changes to be implemented in the broker channel (please see the attached timescale in spreadsheet A set out by the ETPG).

ETPG have said: "From the time these final changes are published insurers and software houses need to make the following six step changes":

Steps 1-4 taking 3-4 months to implement and Steps 5/6 up to a further 12 months to implement. This suggests that it will take up to **16 months** to implement for the broker channel.

1. Insurer to consider new NCD stepback rules

2. Insurer to draft NCD 'template' document for software houses highlighting the dynamic fields.

3. Insurer to draft rules for populating the dynamic fields (scenario based).

4. Insurer to raise changes with each SWH.

5. Software houses to make changes (this will be a change to all products/schemes on their system for all insurers and because it involves new business and renewals we have been advised that this will take up to 12 months to implement)

6. Insurer testing of product rules/rates to ensure rules are firing correctly and testing that documents are being produced correctly.

The first item on the critical path is technical standards, BIBA has instructed the ETPG to proceed and the first draft of these was published only recently. But technical standards cannot be finalised until the Final Order is made.

The remedy applies to **renewals** in addition to new business. Software houses will be issuing renewal EDI messages some 2 months in advance of renewal to enable Insurance Brokers to comply with their obligations under the FCA ICOB rules to provide consumers with renewal terms 'in good time' before renewal. The suggested 6 month timeframe of the CMA (early March 2015 for the Final order to be issued until 1/9/2015 for it to become effective) **is in fact less than 4 months** in the broker market.

BIBA understand that Polaris and many of the software houses that sit on the ETPG are responding directly to your Final Draft Order Consultation.

We asked each provider for their position and their response is detailed below. All of the information is commercially sensitive. We will provide a confidential list separate to this document that will attribute the appropriate quotes.

Software house feedback:

Polaris – '1/9/2015 deadline cannot be met in broker market and 16 month implementation period is requested'. Need clarification under a number of points in the order before they can work with software houses towards implementation.

SWH A – 'development work will take a minimum of 6 – 9 months. Implementation and testing with insurers will take 3 months minimum (due to insurer lead times on rating file updates). So in total **minimum of 12 – 15 elapsed** months, subject to detailed requirements, insurer resource availability and probably de-prioritising other work e.g. MyLicence, FloodRe.

SWH B – Taking into account the fact that all SWH's/insurers/affiliates would need to all make significant changes our recommendation would be to **move the date back by at least 12 months.**

SWH C – 'a live date of 1st September 2015 is unworkable for ourselves. As a minimum once exact requirements are submitted from our Insurer and Broker partners we would need **at least a 12 month lead time.** Given that there are other Industry initiatives already underway such as MyLicence and FloodRe we would need this lead time to be extended further.'

SWH D– 'at least a year for implementation with 4 months internal work to develop and test'.

SWH E – 'given what we know now I think for us delivery by the **end of 2015** would still **present a challenge.**

SWH F – We believe we could not complete this work in less than 16 months from the order being passed in March.

The feedback in this letter are responses from the top 6 software houses, covering the majority of the broker market and **NONE OF THEM** think the CMA timescales are achievable and all suggest a 12 month lead time from the date the order is implemented but realistically a 16 month timescale is what is required to ensure compliance.

Broker Feedback:
1st Central
One of our members 1st Central advise –' although we do not use a software house the timescales for us are extremely tight based on other developments that we already have scheduled to be programmed over the next 6-12 months. **"A deadline of 1st September is not achievable in our eyes"**.

Smaller Brokers
Many smaller brokers have said that they are wholly reliant on insurance companies and software houses in order to comply with the timescales, so it is therefore wholly out of their control.

AA
BIBA member the AA advised they are **looking more like 14 rather than 16 months, albeit this timeline is heavily dependent on insurer products being readily available.**

Swinton
BIBA member Swinton advised they have concerns about its ability, and the ability of the broker industry generally, to be able to comply with this deadline. September 2016 remains an appropriate deadline with which all participants in the industry will be able to comply.

BIBA consider it is in the CMA's interest for Firms to comply – this will correct the competition imbalances in your final report. There are serious consequences for firms that do not comply with your order. Non-compliance means that claims for damage can be brought by third parties, as well as potential enforcement action by both the CMA and FCA. The only viable alternative for Firms that cannot comply in time is to exit the market for protection. To be compliant the industry needs more time.

So, as the order stands today, you will lock many brokers out of the market, you will distort competition and some customers will lose the benefit of protected NCB. Put together, you are unlikely to achieve the aims set out in your final order. The alternative is simple, which is to allow us a 16 month period to be compliant.

BIBA members have observed that the onerous timescales could potentially create a situation where breaches of some of the FCA 'SYSC' (Senior Management Arrangements, Systems and Controls) handbook rules could occur.

BIBA would also observe that the new **Insurance Bill** which is passing through Parliament at the moment with the likelihood of becoming law in May 2015 **allows 18 months for it to come into effect** to allow the industry to adapt to the changes and we urge the CMA to follow suit with the timescale of this remedy.

Insurer Feedback
The ABI also agrees that the timescales are insufficient and insurer Axa has stated that it would require 'a minimum of 12 months from the making of the enforcement order.

Information to customers - Prescriptive Regulation

BIBA is pleased that the FCA has started a working group entitled 'The provision of timely and appropriate information in the general insurance sector' and that their remit will cover the CMA Investigation.

We would suggest that this FCA working group and the FCA Behavioural economics team assist in refining this order and the information disclosure requirements to customers.

If the CMA is unwilling to change to a principle based system then we are suggesting some refinements to the wording in order to make it clearer to customers.

Regarding Schedule 1a – NCB Protection Statement to be provided by PMI Providers,

1. (a) BIBA believes this statement should be principles based but, if a set wording has to be used then we believe a clearer statement would be:

'No claims bonus protection mitigates any increase in the overall price of your insurance policy following an accident, but the price of your insurance policy may increase following an accident, even if you were not at fault'

(b) BIBA would recommend the following wording to be used –

'How your no claims bonus could be affected by claims - no claims bonus protection allows you to make one or more claims before your no claims bonus years reduces. Please see the no claims bonus step back procedures for details.'

In respect of Schedule 2, 'NCB Protection Information to be provided by PMI Providers including implied price'. When BIBA members approached their panel of Insurers and asked them to articulate their NCD and step-back rules, a number of Insurers informed them that they have very complex rules which cannot be easily laid out and the discount varied according to the age of the driver with some insurers.

It has become evident in our member research that Insurers do not typically use the NCD scales and step-back rules that were the norm 10 years ago, but instead use 2 and 3 way tables to calculate percentages.

To try to show a calculation, as proposed in the draft Order, could potentially lead to customer confusion and would therefore not provide the clarity that the CMA are seeking.

Level Playing Field – PCW's

The continued existence of 'Narrow MFN's' means that a broker has to show the highest price of those prices shown on PCWs on their own website, rather than the lowest price.

This is clearly to the detriment of the consumer and anti-competitive and we believe fails the stated aims on the CMA website stating –

'We work to promote competition for the benefit of consumers, both within and outside the UK. Our aim is to make markets work well for consumers, businesses and the economy.'

BIBA believes the retention of 'Narrow MFNs' is solely to the anti-competitive benefit of PCWs and not the consumer.

In the interest of a level playing field BIBA would also like to make the key point that as all insurance brokers who have the same FCA intermediary permission as insurance comparison site are subject to compliance no matter their size, or how many motor insurance policies they sell, that a PCW of any size should also comply. It is incongruous to BIBA that a PCW with 300,000 customers is not fully included, when they have the same status in the eyes of the FCA.

Guaranteed NCB
We understand this is included within the order but that no step back information can be given as there is no step back.

In Summary
Of all the points we have raised in the response our most serious concern is that the broking sector cannot comply with the timescales for the NCB protection remedy largely due to

factors beyond their control, i.e. reliance on software houses and insurers who in this response have all said they cannot comply by 1 September 2015. Therefore we request an implementation date of 1st July 2016.

The NCB remedy needs to be capable of being implemented by all participants in the market – insurers and brokers alike – at the same time.

If you would like us to provide any more detail on the information we have provide, please contact me on the details below.

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Polaris correspondence
Spreadsheet A

polaris

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28th January 2015

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Dear Graeme

Polaris and Personal Lines Electronic Trading Practices Group (ETPG)

In your email of 23rd January you asked for a description of the ETPG and Polaris for your response to the CMA.

ETPG

The ETPG is a non-profit making forum with open entry for insurers, software houses, intermediaries and industry bodies to consider industry-wide issues impacting electronic commerce and develop voluntary standards to increase efficiencies and facilitate trade in the industry. There are two groups, one covering Personal Lines and the other Commercial Lines. We have focused the description below on the Personal Lines group.

Polaris simply provides secretarial and administrative support to the ETPG.

The functions of the ETPG are to:

1. Establish and maintain technical, business and systems best practices which enable and promote the use of eTrading for Personal Lines business

2. Develop and document member's requirements and views on matters pertaining to best practices, guidelines and standards for Personal Lines eTrading.

3. Develop, document and maintain guidelines and good practices which support the successful implementation of Personal Line eTrading standards.

4. Provide a forum for members to identify and contribute to future initiatives which rely upon standards or would benefit from the subject matter expertise of the ETPG community.

5. Provide advice and guidance to existing and potential members of the eTrading community.

6. To commission ad hoc activity to consider specific issues affecting Personal Lines eTrading and explore ways to address these issues.

Neither Polaris nor the ETPG has any involvement in areas of members' competitive interests – e.g. members' pricing, terms and conditions or product development.

The need for the body is underlined by the fact that with large numbers of insurers trading with large numbers of brokers some standardisation in technical protocols and inter insurer-broker business practices is necessary for trading to take place. Without the support of the ETPG, each insurer (of which there are approximately 50) and each broker (of which there are approximately 2,500) would have to enter into individual agreements about technical and business standards which would be time consuming, expensive and operationally inefficient for all parties..

In accordance with the ETPG's competition law compliance policy, the ETPG closely observes the following points:

1. The standards are non-binding and do not go beyond what is necessary to achieve the efficiency gains - i.e. the streamlining of processes in the marketplace

2. The ETPG is open to any new members who may wish to take part in the setting of the standards.

3. Fees for using the standards are fair, transparent, non-profit making and applied in a non-discriminatory way; and

4. There is no exchange of commercially sensitive information between ETPG members during the development of the standards or otherwise.

5. All market participants are free to set standards without involving the ETPG.

As noted above, Polaris' role in the ETPG is simply to host the forum and provide administrative support.

Polaris

By way of brief background on Polaris, Polaris is an insurer and broker owned body that is dedicated to supporting standards for the UK general insurance industry In addition to hosting the ETPG, Polaris offers the ProductWriter software suite (a means of insurance product definition and rating) and imarket (a network linking brokers and insurers for the transaction of commercial lines business). These are infrastructural services and Polaris has no access to individual insurers terms and conditions. Similarly, no insurer has access to any other insurers' terms and conditions.

CMA Overall Implementation Timeline							
Stakeholder activity	**Q1 2015**	**Q2 2015**	**Q3 2015**	**Q4 2015**	**Q1 2016**	**Q2 2016**	**Q3 2016**
Direct Insurer							
Changes to quote and policy documents							
Front end web interface changes							
Application changes							
Product Changes							
Intermediated Insurer							
Analysis of NCD/PNCD stepback rules (if applicable)							
Draft NCD 'template' document for SWHs highlighting the dynamic fields.							
Draft rules for populating the dynamic fields (scenario based).							
Changes raised with each SWH for product rating and/or document changes - for new business and renewal							
EDI message changes - Renewal Invite							
Test changes				Software house B		Software house A	
Software House A(where product changes are made by SWH)							
Analysis of system changes for documents and rating							
Development, implementation and testing							
System changes to support dynamic data in EDI renewal messages							
Changes to the aggregator interfaces							
Software House B (where product changes are made by Insurer)							
Development of URL provision							
System changes to support dynamic data in EDI renewal messages							
Load new versions of policy summaries and key facts							
Work with insurers to integrate updated versions of schemes and document changes.							
Manually create and then develop/test new document type (1-2 weeks per insurer/scheme)							
Accommodate insurer testing and provide support							
Schedule Changes							
Changes to the aggregator interfaces							
Broker With Own Inhouse System or Broker Using Bespoke SWH System							
Same steps as either SWH A or B depending on technology/responsibility for product changes							
Changes to bespoke systems to receive implied price information							
Create a repository to store and interrogate that information							
Changes to the aggregator interfaces							
Develop new scripts and collaterals (documents/emails)							