

## COMPETITION COMMISSION INVESTIGATION INTO PRIVATE MOTOR INSURANCE

### AGEAS'S SUBMISSION IN RESPONSE TO THE ANNOTATED ISSUES STATEMENT AND WORKING PAPERS

Ageas UK<sup>1</sup> welcomes this opportunity to comment on the Competition Commission's annotated issues statement and the working papers that have been published to date.

Ageas UK is fully supportive of the Competition Commission's review of current practices in the motor insurance industry and is in broad agreement with the views that the Competition Commission has expressed to date. The purpose of this paper is to identify and provide comments on the points that, in Ageas UK's view, are the main areas of focus for us and our customers.

From Ageas UK's perspective, the key areas are the moral hazard issues created by the separation of cost liability and cost control (Theory of harm 1) and the use of Most Favoured Nation ("MFN") clauses by Price Comparison Websites ("PCWs"), which the Competition Commission is considering as part of Theory of harm 5. Ageas UK has also included below comments on Theory of harm 4, relating to add-ons and obstacles to switching.

#### 1 ABOUT AGEAS

- 1.1 Ageas is the second largest motor insurer in the UK by number of vehicles insured. It insures over 3.3 million motorists through its underwriting businesses Ageas Insurance Limited, Groupama Insurance Company Limited and Tesco Underwriting Limited, its partnership with Tesco Bank.
- 1.2 Ageas also has a presence in the retail sector, through its Ageas Insurance Solutions, Ageas 50 (RIAS and Castle Cover brands), Kwik Fit Insurance Services, Express Insurance and The Green Insurance Company broker businesses.
- 1.3 Ageas UK has been widely recognised for how it treats its customers and how it runs its business in accordance with the best interests of its stakeholders. For example, last year Ageas UK was awarded for the fifth year running the Incisive Media "Gold Standard Award", which is awarded to financial services companies that go above and beyond standard business practices to promote customer trust, whilst the Institute of Customer Services has awarded Ageas UK "World Class" status and the Service Mark accreditation.

#### 2 TOH 1 - MORAL HAZARD ISSUES CREATED BY THE SEPARATION OF COST LIABILITY AND COST CONTROL

- 2.1 Ageas UK agrees with the view that has been expressed more generally in the industry that Theory of harm 1 should be a central focus of the Competition Commission's investigation. Ageas UK also agrees with the Competition Commission's findings that the underlying issues principally relate to the increased cost of claims for fault insurers, rather than any detriment to service quality.

##### *Overcosting and overprovision of repairs*

- 2.2 Ageas UK notes the finding in the Competition Commission's working paper entitled "Theory of harm 1: Overcosting and overprovision of repairs" that the separation of cost liability and cost control enables non-fault insurers and Claims Management Companies ("CMCs") to

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<sup>1</sup> In this submission, references to "Ageas UK" mean Ageas (UK) Limited and, where applicable, its subsidiaries, excluding Tesco Underwriting Limited. Tesco Underwriting Limited is a joint arrangement with Tesco Bank and its views do not form part of this response.

increase the average cost to the fault insurer of a non-fault repair by up to around £300 if it is a credit repair and by up to around £270 to £390 if the non-fault insurer manages the repair.

2.3 Ageas UK makes the following observations regarding the above data:

2.3.1 The working paper identifies various strategies that non-fault insurers and CMCs use to inflate the repair charges that they pass on to fault insurers, over and above the costs that they actually incur. These include making upward adjustments to repair bills, not passing on discounts and rebates obtained from repairers, charging administration fees to repairers, and establishing subsidiaries to perform non-fault repairs at retail rates and extracting the profits as dividends or referral fees. Ageas UK notes that there are wide disparities between the extent to which insurers and CMCs use such strategies to inflate costs (and, indeed, it is important to bear in mind that some insurers do not inflate costs at all).

2.3.2 Ageas UK notes that, as a matter of tort law, the *Coles v Hetherington* judgment has the effect of allowing non-fault insurers (and CMCs) to inflate the costs that they pass on to the fault insurers. The overall cost may not exceed what is reasonable. However, a “reasonable” cost could be materially higher than the cost that would be incurred if the repair was handled as efficiently as possible, reflecting the true costs incurred.

2.3.3 Ageas UK considers that the relative lack of focus on referral fees in the working papers is appropriate. Referral fees appear to inflate the cost of repairs because the repairer will reflect the cost of paying the referral fee in its repair costs, which are passed on to the fault insurer. However, referral fees are a symptom of the underlying problem, rather than the problem itself. In essence, they are no different to the other strategies that the Competition Commission has identified that lead to inflated repair charges. Targeting referral fees alone would not address the issues that the Competition Commission has identified. Rather, the Competition Commission needs to focus more broadly on the industry practices that allow charges to become inflated. In this context, Ageas UK notes that the prohibition on referral fees in isolation in personal injury cases has had limited impact on the problems in that sector which the prohibition was designed to address. In this area, the reduction of the legal fees (from £1,200 to £500) has made the material impact.

2.4 Ageas UK notes that, whilst the separation of cost liability and cost control may indeed lead to higher repair costs, identifying potential remedies will be a challenging task. The issues that the Competition Commission is investigating are highly complex. The insurance industry has already attempted to address certain of the issues being investigated by the Competition Commission, through initiatives such as the GTA, bilateral agreements between insurers and RIPE. However, our experience suggests that whilst such efforts have been helpful, they have not provided a fully effective solution. In Ageas UK’s experience the reasons for this include: the fact that they do not cover all insurers; the challenge of ensuring that they operate within competition law parameters; and the associated burden of administration.

2.5 Consequently, when the Competition Commission turns its attention to remedies, considerable care will be needed to ensure that proposed remedies are both proportionate to the perceived customer detriment and achieve their objectives without any unintended consequences.

#### ***Overcosting and overprovision of TRVs***

2.6 Ageas UK notes the Competition Commission’s findings that insurers pay around twice as much for a credit hire TRV than for a direct hire TRV and that this is driven principally by a

higher daily rate, but also by a longer hire duration. This is consistent with Ageas UK's own experience.

- 2.7 Ageas UK further notes the Competition Commission's observation that although credit hire durations are on average 3.7 days longer than direct hire durations: *"hire duration is largely determined by repair duration and it is not clear from the evidence that we have seen so far that non-fault repair durations are longer when a non-fault claimant is provided with TRV services under credit hire than under direct hire."*<sup>2</sup>
- 2.8 Ageas UK observes that this comparison may not be the most appropriate one to make. The relevant factor is unlikely to be whether a TRV is provided under credit hire or direct hire, but rather whether the TRV is being arranged by the non-fault insurer (or a third party such as a CMC, as the case may be) or by the fault insurer. It is Ageas UK's own experience that, where a TRV is arranged by a non-fault insurer, hire durations are likely to be substantially longer (irrespective of whether credit hire or direct hire is used) than where a TRV is arranged by the fault insurer. This is likely to be due to a number of factors, including the following:
- a) A non-fault insurer has less incentive to require the repairer to prioritise a non-fault repair as the cost of repair and TRV hire will not be met by the non-fault insurer but will instead be passed to the fault insurer. Indeed, extending the duration of a repair may generate higher referral fees, which would inevitably increase costs for the fault insurer.
  - b) A repairer may be less likely to prioritise a non-fault repair as the non-fault customer is using a credit or direct hire TRV, rather than the repairer's own courtesy car.

### **Vehicle write-offs**

- 2.9 The Competition Commission's working paper entitled "Theories of harm 1 and 2: Vehicle write-offs" suggests that the separation of cost liability and cost control results in the overcosting of non-fault vehicle write-offs, which is achieved by estimated salvage values for non-fault vehicles being set artificially low by some non-fault insurers and CMCs, increasing payout by fault insurers. The working paper suggests that the extent of the overcosting is likely to be up to around £200 per non-fault written-off vehicle.
- 2.10 Consistent with the findings in the working paper, Ageas UK considers that non-fault insurers and CMCs do claim low salvage values for written-off vehicles, particularly for higher value vehicles. Where Ageas UK has suspected this is the case, it has sought to challenge such claims.

## **3 TOH 4 – ADD-ONS AND OBSTACLES TO SWITCHING**

- 3.1 Ageas UK sets out below its comments on certain of the other issues that the Competition Commission is investigating.

### **Add-ons**

- 3.2 Ageas UK is pleased that the Competition Commission's working paper on add-ons reflects that consumers prefer to tailor their policies by having features offered separately as add-ons to their main policy. Indeed, that reflects Ageas UK's own experience.

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<sup>2</sup> Working paper on overcosting and overprovision of TRVs.

- 3.3 In Ageas UK's view, the key consideration with regard to add-ons is whether consumers properly understand the products that they are buying. As a matter of principle, Ageas UK is fully supportive of measures to ensure that consumers do fully understand the products sold to them, including any add-on, and this is something that Ageas UK therefore works hard to achieve.
- 3.4 The FCA is currently looking at add-ons. In order to avoid any duplication if any further investigation is found to be required in this area, Ageas UK would support it being carried out as part of the FCA investigation.

#### **Obstacles to switching**

- 3.5 Ageas UK considers that the very high prevalence of customer switching in the private motor insurance sector underlines that customers do not face any material obstacles to switching.
- 3.6 Ageas UK therefore welcomes the conclusion of the working paper on obstacles to switching that automatic renewals and cancellation fees do not appear to be obstacles to switching which could give rise to customer harm.

#### **4 TOH 5 - DISTORTIONS CAUSED BY PCWS' USE OF MFNS**

- 4.1 Ageas UK welcomes the existence of PCWs. For consumers, they provide ready access to a wide variety of insurance providers and the ability to compare prices and products. For insurance providers, they represent a valuable route to market and account for a significant proportion of sales.
- 4.2 For at least some of its brands, Ageas UK regards PCWs as "must have" trading partners. Ageas UK considers that the big four PCWs have considerable bargaining power when negotiating with insurance providers.
- 4.3 Ageas UK agrees with the sentiment expressed in the working paper entitled "Theory of harm 3 – Horizontal concentration in PCWs" that "*there are other factors arising from the nature of competition between PCWs which might cause consumer detriment, notably the existence of some wide-scoped MFNs in contracts between PCWs and PMI providers.*"
- 4.4 Ageas UK's submission in response to the issues statement sets out its principal concerns regarding PCWs' use of MFNs. It has not sought to repeat those concerns in full in this document. However, by way of a brief overview, Ageas UK's concerns can be summarised as follows:
- 4.4.1 When writing insurance business, one of the factors that Ageas UK will take into account is the relative fraud risk associated with the business that is being written.
- 4.4.2 PCWs have become a very well-established tool for consumers to search for and buy motor insurance. Ageas UK notes the comment made in the working paper entitled "Background to private motor insurance" to the effect that, whilst the Competition Commission accepts that sales through PCWs involve higher risks than other channels, this is due to the "*mix/demographic profile of customers buying through a particular channel, rather than the riskiness of the channel itself*". Ageas UK does not agree with this comment. The consumer demographic using PCWs is broadly the same as that for any other distribution channel. However, Ageas UK considers that the PCW channel is inherently more risky for insurers, precisely because customers who use PCWs have a higher tendency to provide misleading information through the PCW channel, compared to other channels. In particular, it is well known that some consumers will try to "game" PCWs in order to try to obtain a lower quote. For

example, a consumer might try inputting several different occupations or change their address, details of previous motoring convictions or even their date of birth, with a view to trying to obtain a lower quote. Ultimately, for this reason selling through PCWs presents a higher fraud risk.

- 4.4.3 The phenomenon outlined above appears to arise from consumers' sense of relative remoteness from the insurance provider when they source through PCWs. Consumers are much less likely to provide misleading information when they buy from an insurer or broker face to face or on the telephone (or, for that matter, when they buy direct from an insurer through its website).
- 4.4.4 In practice, it is challenging for an insurer to detect fraudulent conduct by consumers at the point of sale. While fraudulent claims can be successfully challenged, it is important to bear in mind that, even where a consumer has acted fraudulently, the insurer is likely to bear costs if the consumer is involved in an accident. In particular, under the Road Traffic Act 1988, s.151(5), an insurer must meet claims by a non-fault third party where its customer was at fault, even if that customer has committed fraud such that its own insurance policy is invalid.
- 4.4.5 The impact of the above is that, all other things being equal, Ageas UK would wish to (i) offer more favourable terms to other channels than it does to PCWs, reflecting the underlying risks and (ii) within the PCW market, offer better terms to PCWs who seek to improve their fraud detection capabilities. Ageas UK is aware that at least one PCW has sought to do this, and while Ageas would wish to reward them, the existence of MFN clauses prevent this from happening. This reduces the incentive for the PCW to invest in these additional capabilities.
- 4.4.6 Similarly, there may be a range of other innovations that a PCW would wish to undertake that would benefit consumers, and that Ageas UK would wish to support through favourable pricing. MFNs prevent this from happening, lowering innovation in the PCW sector, and reducing the potential benefits made available to consumers.
- 4.4.7 In summary, in the absence of MFNs, Ageas UK would use pricing to encourage PCWs (and others) to introduce fraud detection and other innovative measures, to the benefit of all consumers. As a result, it would expect the level of fraudulent activity across the industry to fall overall, consequently leading to a reduction in premiums and higher quality services for consumers.
- 4.5 In light of the above, Ageas UK fully welcomes the Competition Commission's indication that it intends to consider MFNs further in order to form a view on whether they are, on balance, pro- or anti-competitive.
- 4.6 Ageas UK notes that the Competition Commission's working paper distinguishes between different types of MFN. In Ageas UK's view, the wider the MFN, the more likely it is to be detrimental to consumers. However, the comments as set out above apply to all forms of MFN.

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