

**Digital Comparison Tools Market Study  
Response to CMA's Update Paper**

**[An Insurance Group C]**

[Insurance Group C] welcomes the CMA's DCT Market Study Update Paper (**the DCT Update Paper**) and agrees with the CMA's proposal not to make a reference for a full market investigation. However, [Insurance Group C] also agrees that there are certain practices within DCT markets which may raise competition concerns, specifically wide and narrow most favoured nation (**MFN**) clauses. [Insurance Group C] will therefore focus its comments on these two areas.

**Wide MFNs: impact of removal of wide MFNs in the PMI sector**

As set out in [Insurance Group C's] response to the CMA's follow up questions,<sup>1</sup> [Insurance Group C] believes that there has been a clear increase in competition in the market for private motor insurance (**PMI**) since the ban of wide MFNs. [Insurance Group C] has been able to leverage promotional deals with selected partners in order to drive commercially advantageous arrangements. This has provided [Insurance Group C] with greater flexibility to target specific customer groups and work more dynamically. Details of these commercial arrangements have been provided in [Insurance Group C's] response to the CMA's follow up questions. The main outcome of removing wide MFNs is that DCTs can no longer guarantee the 'cheapest' price for their customers. This has positively increased the negotiating power of insurers, as DCTs are no longer able to aggressively demand commission increases. Instead, DCTs are striving for closer mutual trading relationships in order to secure the best price for both parties. This is a clear pro-competitive effect of the ban on wide MFNs.

Removing the network of wide MFNs that were prevalent across the PMI industry has also enabled DCTs to consider new ways to challenge [REDACTED]. [REDACTED]<sup>2</sup>

Wide MFNs are clearly extremely problematic and harmful to competition. In [Insurance Group C's] view, the prohibition on wide MFNs needs to be consistently applied across all aspects of the insurance market. [Insurance Group C] therefore urges the CMA to consider enforcement action to prohibit DCTs from using wide MFN clauses and/or equivalent behaviour across all insurance products.

**Narrow MFNs: restrictions on non-price offerings**

[Insurance Group C] acknowledges the CMA's findings that narrow MFNs may, in some circumstances, have pro-competitive effects and [Insurance Group C] does not dispute these conclusions. However, considerable effort is being made by DCTs to find ways to 'work around' narrow MFN provisions to place even stricter controls on insurers. This has

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<sup>1</sup> [Insurance Group C's] Response to the CMA's follow up questions, submitted to the CMA on 24 January 2017.

<sup>2</sup> See CMA Final Report PMI Market Investigation , para 8.81 and the DCT Update Paper, para 7.47.

the effect of softening competition, as insurers are unable to provide innovative and novel non-price related offerings.

[Insurance Group C] currently has narrow MFN clauses in place with [REDACTED]. As a result of these narrow MFNs, [Insurance Group C] is prevented from offering a cheaper price on its own website than the customer could obtain via the DCTs' website. As insurers look to balance their shares of direct and DCT acquisitions, there is an increased incentive to consider innovative ways to attract customers, for example through varying promotional offers or providing more favourable terms. This is in order to balance the costs associated with acquiring customers across the various channels.

However, in order to protect their business models, DCTs have sought to widen the ambit of their narrow MFNs to encompass not just the cheapest price, but also terms which might be offered on a more favourable basis to direct customers. [Insurance Group C] believes the evolution of narrow MFNs from 'price' to 'price plus preferential terms' is a step too far. See Annex 1, which sets out the detail of the historic and current narrow MFN clauses that [Insurance Group C] has signed with [REDACTED].

Due to the network of narrow MFNs that are in place, in practice this means that the DCT which puts the biggest constraint on [Insurance Group C], drives [Insurance Group C's] direct proposition to the market. This prevents [Insurance Group C] engaging in direct marketing activity that is both pro-competitive and beneficial for customers. [Insurance Group C] has set out below two examples of the types of promotions for direct customers that have been under consideration:

- [REDACTED]
- [REDACTED]

Under the current narrow MFNs that [Insurance Group C] has in place, these types of non-price offerings would have to be offered equally across all DCT channels if [Insurance Group C] wanted to offer them directly to customers. This removes entirely the uniqueness of the promotions (as DCTs would require them to be replicated across their sites) and makes non-price offerings commercially unviable (as the costs of acquisition via DCTs would outweigh the financial benefits of any campaign). [Insurance Group C] is therefore prevented from running any innovative non-price promotional campaigns as a direct result of the evolution of narrow MFNs from 'price' to 'price plus preferential terms'.

[Insurance Group C] believes that these overly restrictive narrow MFN clauses harm competition through limiting innovation, in terms of marketing, product and proposition. One solution would be for the CMA to draft a model narrow MFN clause that sets the boundaries of the permitted provisions. This would ensure that narrow MFNs are only applicable to (i) price competition and (ii) business that is genuinely direct (i.e. they would not apply to customers who have been introduced via other means). See Annex 2, which sets out an example of the type of model clause which could be introduced by the CMA.

**Further engagement**

[Insurance Group C] would be happy to engage further with the CMA in relation to either wide or narrow MFNs, including through providing any additional information to supplement this submission or attending industry focused workshops held by the CMA.

**24 April 2017**

ANNEX 1  
Table of Narrow MFN clauses

[REDACTED]

<b>DCT</b>	<b>Previous Narrow MFN</b>	<b>Current Narrow MFN</b>
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

ANNEX 2

Model Narrow MFN clause

*“The insurer will provide customers with prices for its insurance products that are equal to or less than those prices offered on the insurer’s direct websites (for the avoidance of doubt this includes retail price to the customer and does not include any other non-price inducements or terms which the insurer may set from time to time to attract customers to its direct website) where the underlying risk factors available to the insurer are identical, provided that the insurer may offer lower priced insurance products than those offered on the website to:*

- (a) its own employees (including their families or friends), contractors and agents; or*
- (b) its own customers via time-bound marketing campaigns and special offers*

*For the avoidance of doubt, where a customer is referred to the provider via an intermediary/introducer/third party the terms of this sub-clause shall not apply.”*