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By email: [GIPricingPractices@fca.org.uk](mailto:GIPricingPractices@fca.org.uk)

Dear Sir/Madam

**Financial Services Consumer Panel (FSCP) response to General Insurance (GI) Pricing Practices Terms of Reference (TORs)**

The Panel welcomes the opportunity to respond to the proposed TORs. The Panel has previously said that addressing unfair pricing requires a focus on supply-side behaviour throughout the general insurance sector.

We welcome the review of how firms' conduct impacts the prices consumers pay. The FCA's competition powers should be brought to bear on the supply-side practices which prevent robust competition in the sector. As the Panel's research has shown, relying on consumers to drive competition in the financial services sector is ineffective.<sup>1</sup>

The proposed remedies should serve all consumers and not just those deemed 'vulnerable.' Anyone can become vulnerable at any time.<sup>2</sup> Moreover, this is clearly a case where the way the market operates causes vulnerability.<sup>3</sup>

The following should be added to the scope of the market study:

1. The time required for consumers to find relevant information for making a product decision: being a consumer should not be a full-time job;
2. SMEs and,
3. the entire value chain of product delivery (e.g. distributors, PCWs and other third-party intermediaries).

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<sup>1</sup>[https://www.fscp.org.uk/sites/default/files/fscp\\_consumers\\_and\\_competition\\_thinkpiece\\_finalpp\\_jtl\\_20170306.pdf](https://www.fscp.org.uk/sites/default/files/fscp_consumers_and_competition_thinkpiece_finalpp_jtl_20170306.pdf)

<sup>2</sup> <http://www.moneyandmentalhealth.org/wp-content/uploads/2017/02/Seeing-through-the-fog-Final-report-1.pdf>

<sup>3</sup> [https://ec.europa.eu/info/publications/understanding-consumer-vulnerability-eus-key-markets\\_en](https://ec.europa.eu/info/publications/understanding-consumer-vulnerability-eus-key-markets_en)

We set out below our views on the proposed scope, issues and potential remedies set out in the ToRs.

Yours faithfully

Sue Lewis

Chair, Financial Services Consumer Panel

## **Market Study Scope**

### *SMEs*

The ToRs should also cover the harm suffered by SMEs. We heard at our SME roundtable this year, that the ability to compare like for like products is an important tool for small businesses. It would be especially helpful to understand how SMEs use motor and home insurance products and how firms' pricing practices cause harm to small businesses.

### ***Intermediaries and Price Comparison Websites (PCWs)***

The study should consider the conduct of the entire value chain. We think it's right that the FCA will review the impact of intermediaries such as digital comparison tools (DCTs) and PCWs.

### *Impact of Commission Arrangements*

The change in the way that insurance is purchased has created a mismatch between what consumers expect from insurance and what it actually delivers to them.<sup>4</sup> It is well known that PCWs have created a risk of consumers making decisions on the basis of price alone. The CMA's DCT Market Study found that 'a lack of transparency about how products were ranked may harm consumers by causing them to make poor decisions about which products to... purchase.'<sup>5</sup>

PCWs have a role to play in a competitive market however, the options given to consumers should not be driven by commission arrangements with providers. The CMA's 2016 DCT market study found that users generally did not know how comparison sites made money. It also found that knowing DCTs are commercial enterprises and how they make money may influence how consumers use them and which ones they choose.<sup>6</sup>

The FCA's 2014 thematic review on PCWs in the GI sector found that PCWs did not make clear their role in the distribution of the product or the nature of the service they provided.

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<sup>4</sup> <https://www.fairerfinance.com/assets/uploads/documents/Fairer-Finance-Misbuying-Insurance-Research-Report.pdf>

<sup>5</sup> Page 39, <https://assets.publishing.service.gov.uk/media/59c93546e5274a77468120d6/digital-comparison-tools-market-study-final-report.pdf>

<sup>6</sup> <https://assets.publishing.service.gov.uk/media/59c93546e5274a77468120d6/digital-comparison-tools-market-study-final-report.pdf>

To their detriment, consumers believe they have been provided with products/services that are suitable for their needs and that quotes shown are the best policies for them.<sup>7</sup>

Only recently an intermediary has allegedly benefited commercially from promoting a leading travel insurance company, despite the company having poor consumer reviews and now being under formal investigation by the General Medical Council and the FCA for alleged negligence and fraud.<sup>8</sup> The consumer harm here is clear and calls into question the relationship between PCWs/intermediaries and insurance companies.

## **Further Issues**

### *Price optimisation and discrimination*

The Panel questions whether price optimisation – which insurance firms use to price discriminate against customers unlikely to switch – is consistent with Treating Customers Fairly. The FCA should reach a view on this as part of the study.

Media coverage on potentially discriminatory pricing practices by car insurance companies should prompt further investigation, to ensure that groups of consumers are not being unfairly discriminated against. For example, a BBC *You and Yours* investigation<sup>9</sup> into five leading comparison websites found that names associated with people of a minority ethnic background were quoted higher prices than names that were not, despite all risk factors being the same.

PCWs in effect exclude consumers with non-standard risks e.g. those who have homes with a thatched roof or living in an area prone to subsidence. PCWs also exclude consumers who can't, or prefer not to, transact online. This is likely to be older people, or those without internet access. Similarly, PCWs will not accommodate those who have declared certain conditions to the DVLA e.g. depression, PTSD. Again, this is potentially penalising the most vulnerable.

Paying for insurance monthly is costlier than paying for it annually. This may indicate that those who cannot afford to pay the annual cost of a policy upfront, and may be vulnerable, are being penalised by paying more for the same policy each month.

### *Reasons for switching*

Research commissioned by the Panel<sup>10</sup> highlighted the need to consider that it may be an active choice for consumers not to switch. As we stated in our response to the CMA's loyalty penalty super-complaint, consumers simply want their existing provider to treat them fairly, rather than spend their precious time searching a complex market place for the best deal.<sup>11</sup>

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<sup>7</sup> <https://www.fca.org.uk/publications/thematic-reviews/tr14-11-price-comparison-websites-general-insurance-sector>

<sup>8</sup> <https://www.thetimes.co.uk/article/money-guru-took-commission-for-plugging-insurer-ph2gwm7jq>

<sup>9</sup> <https://www.bbc.co.uk/news/business-43011882>

<sup>10</sup> [https://www.fs-cp.org.uk/sites/default/files/fscp\\_consumers\\_and\\_competition\\_thinkpiece\\_finalpp\\_jtl\\_20170306.pdf](https://www.fs-cp.org.uk/sites/default/files/fscp_consumers_and_competition_thinkpiece_finalpp_jtl_20170306.pdf)

<sup>11</sup> [https://www.fs-cp.org.uk/sites/default/files/fscp\\_response\\_to\\_cma\\_loyalty\\_penalty.pdf](https://www.fs-cp.org.uk/sites/default/files/fscp_response_to_cma_loyalty_penalty.pdf)

The view that consumers do not know *how* to get better deals may not be outdated. Our research found that high percentages of people thought it worthwhile to shop around for car and home insurance (85% and 74% respectively), but in comparison just a small percentage actually switched provider.<sup>12</sup> This may in part be because people use PCW searches to negotiate a better price with their existing provider.

### **Suggested remedies**

Consumers do not differentiate between the business models across the general insurance sector. They naturally have the same expectations for all providers.

The FCA cannot practically tackle the harm in the whole of the general insurance sector in a single market study. It should therefore develop a principles-based solution for pricing and customer segmentation that can be applied across the sector given similar approach to pricing risks and the expectations of consumers when they take out insurance.

#### **1. Duty of care**

The differences of treatment often seen between existing loyal customers and switchers, could be addressed by a general duty of care on firms.

Firms should have an affirmative obligation to make better prices available without consumers having to take any action (e.g. an automatic upgrade) where the provider's prices have changed for comparable services.

If DCTs/PCWs had a duty of care towards their customers this would mean:

- No conflict of interest
- No profit at the expense of the customer without their knowledge and consent
- loyalty to the customer; and
- a duty of confidentiality, preventing firms from taking advantage of information gained from the customer.<sup>13</sup>

This would prove a better outcome for consumers overall.

#### **2. Individual risk model**

Industry should be challenged to improve product development and adopt a flexible approach to dealing with people with 'non-standard' risks.

#### **3. Supply-side consumer outcome measures**

These should incentivise firms to behave in ways that support competition. The FCA should require firms to make these publicly available, both direct to consumers and to market commentators; and incorporate them in digital comparison tools as well.<sup>14</sup>

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<sup>12</sup> Pg 45, [https://www.fs-cp.org.uk/sites/default/files/fscp\\_consumers\\_and\\_competition\\_thinkpiece\\_finalpp\\_jtl\\_20170306.pdf](https://www.fs-cp.org.uk/sites/default/files/fscp_consumers_and_competition_thinkpiece_finalpp_jtl_20170306.pdf)

<sup>13</sup> [https://www.fs-cp.org.uk/sites/default/files/fscp\\_response\\_cma\\_digital\\_comparison\\_tools.pdf](https://www.fs-cp.org.uk/sites/default/files/fscp_response_cma_digital_comparison_tools.pdf)

<sup>14</sup> [https://www.fs-cp.org.uk/sites/default/files/fscp\\_consumers\\_and\\_competition\\_position\\_paper.pdf](https://www.fs-cp.org.uk/sites/default/files/fscp_consumers_and_competition_position_paper.pdf)

Our research<sup>15</sup> envisaged technology playing a greater role in the future, making it easier for consumers to switch to limit the inconvenience of shopping around. Open Banking is an example.

The FCA should ensure that remedies take account of the digital world the insurance sector increasingly operates in, but that they do not repeat past problems that weaken the consumer's position.<sup>16</sup>As we said in our response to the FCA's Big Data Call for Input,<sup>17</sup> the use of big data has advantages in terms of convenience and easier product comparison, however, it could further entrench existing problems. If not tackled effectively:

- Big data could lead to more individualised risk assessment with significant impact on risk pooling and individual premiums. Longer-term, the pooling of risk would reduce significantly leading to little or no access to insurance for some consumers or higher premiums being paid by others. This is a public policy issue and the FCA could look at other jurisdictions which have tackled this.<sup>18</sup>
- Insurers could refine price optimisation models, penalising loyal customers even more. Firms could also more accurately estimate how high a price a consumer is willing to pay before they feel compelled to switch.
- Consumers' social media data may increasingly be used to make pricing decisions. The ICO has commented that if this information "is going to be used to assess their health risks or their credit worthiness" consumers should be "informed" and have "given their consent."<sup>19</sup>

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<sup>15</sup> [https://www.fs-cp.org.uk/sites/default/files/fscp\\_consumers\\_and\\_competition\\_thinkpiece\\_finalpp\\_jtl\\_20170306.pdf](https://www.fs-cp.org.uk/sites/default/files/fscp_consumers_and_competition_thinkpiece_finalpp_jtl_20170306.pdf)

<sup>16</sup> [Ibid](#)

<sup>17</sup> [https://www.fs-cp.org.uk/sites/default/files/fscp\\_response\\_-\\_big\\_data\\_call\\_for\\_input.pdf](https://www.fs-cp.org.uk/sites/default/files/fscp_response_-_big_data_call_for_input.pdf)

<sup>18</sup> pg 39-40 [http://ec.europa.eu/competition/sectors/financial\\_services/KD0414707ENN.pdf](http://ec.europa.eu/competition/sectors/financial_services/KD0414707ENN.pdf)

<sup>19</sup> Information Commissioner's Office (July 2014), "Big data and data protection", page 22.