Dear Ms Ellman

Re: Competition and Markets Authority’s Final Report on private motor insurance

The motor insurance industry has long been campaigning for reform of the wider claims sector to remove unnecessary costs so that savings can be passed on to hard pressed motorists. Following the Prime Minister’s Insurance Summit in February 2012, we have worked closely with Government and the Transport Select Committee to drive change to the civil litigation framework for personal injury claims and have delivered on our commitment to pass on cost savings to motorists – the average car insurance premium has fallen by around 14% since February 2012. But we recognised that further change was required for the market to deliver better consumer outcomes which is why the insurance industry publicly called for the Office for Fair Trading (OFT) to refer the motor insurance market to the Competition and Markets Authority (CMA) for further investigation as we recognised that regulatory intervention would be the best mechanism to deliver the further change that is needed.

As you will be aware, on 24 September, the CMA issued their final report following the investigation of the private motor insurance market. The report made some useful recommendations in relation to banning restrictive price arrangements by price comparison websites (PCWs) and providing better information to consumers about products added on to the core motor insurance policy. We look forward to working with the CMA and the Financial Conduct Authority (FCA) to take those recommendations forward.

The industry was, however, looking to the CMA to provide meaningful reform of the market for temporary replacement vehicles (TRVs). The CMA (and the OFT before it) has been examining the market for three years and has spent millions of pounds of taxpayers’ money doing so, in addition to the tens of millions of pounds the insurance industry has spent both complying with the investigation and producing constructive suggestions for reform. So for the CMA to determine that there is an adverse effect on competition (AEC) by Credit Hire Organisations (CHOs) providing TRVs on credit terms at rates higher than insurers can negotiate (known as credit hire) and yet to decide not to remedy this is, to say the least, disappointing and can only be described as the CMA ducking the difficult issues.
A consumer who is not at fault in an accident has a legal entitlement to a TRV which the courts have interpreted an entitlement to a “like for like” TRV. This can result in a vehicle being provided by CHOs that is more expensive than the consumer either wants or needs.

Insurers of at-fault drivers want to be able to provide TRVs to customers at the rates that they are able to negotiate with their suppliers rather than at the unnecessarily inflated rates charged by CHOs. The CMA made clear in their final report that to address this AEC “would require a significant intervention in the law” and that this was not warranted by the scale of the problem identified. Although not large in the context of the market overall, the CMA identified the net detriment at £278 for each of the 301,000 annual credit hire claims. This is a cost that consumers will still be paying for through higher car insurance premiums.

Allowing the detriment to consumers to continue in view of the CMA failing to make any recommendation to the Government that the law should be changed, is something Ministers will need to consider and decide whether this is an acceptable outcome from a consumer perspective.

It is important to put the disappointing CMA outcome in the context of the work the Government and industry have been progressing to remove unnecessary costs from personal injury claims. Most recently this has seen the industry agree to fund the development of an IT solution to provide independent medical reports by accredited practitioners in soft tissue injury claims as well as the industry agreeing to share data with claimant lawyers on previous personal injury claims. Although these initiatives will help, the time is right for bolder reform, for example, reducing the three year period in which to make a claim after an accident and indeed asking more fundamental questions about whether some whiplash injuries should result in compensation at all. These are issues that would make a real and meaningful impact on the cost of car insurance for honest customers.

I do hope this is a matter in which you and the Transport Select Committee will take an interest given the extra costs involved for customers in the CMA’s decision.

Yours sincerely

Otto Thoresen
Director General