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**Competition Authority Guidance Note:  
 Preferred Repairer Arrangements in the Insurance Sector**

December 2012



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## EXECUTIVE SUMMARY

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Preferred repairer arrangements are, broadly speaking, agreements that insurance companies enter into with service providers to provide repair, restoration and replacement services to policyholders who make claims under insurance policies. Under these arrangements, policyholders have an incentive to use insurers' preferred repairers.

This Guidance Note sets out the Competition Authority's assessment of such arrangements from a competition perspective. It focuses on arrangements in the motor vehicle and home insurance sectors, since these are the sectors in which they are most commonly found.

Preferred repairer arrangements help insurance companies to control the costs of insurance claims by harnessing competition between repairers. This can yield benefits for all consumers of insurance products.

- *From an insurer's perspective:* The arrangements allow insurers to get a good price from the repairer and to reduce claims administration costs.
- *From a policyholder's perspective:* The arrangements offer clarity and certainty regarding the cost of repairs. This means that policyholders do not have to spend time and effort seeking quotes from different service providers to repair the damage. In such cases, the insurer must also certify that the property has been restored to the condition it was in prior to the damage.
- *From a preferred repairer's perspective:* The arrangements can increase the likelihood of a steady flow of insurance related work.

However, such arrangements have implications that may be seen as negative by some policyholders and repairers since they discourage policyholders from having work done by their own chosen repairers as they may have to cover higher 'excess' levels or bear higher costs if using a repairer which does not have an agreement with their insurer. However, this limitation of policyholders' choice appears to be outweighed by benefits to policyholders.

Repairers who are not on an insurer's preferred list may find it more difficult to obtain insurance related work. However, since insurance companies regularly tender for repair services, all repairers have an opportunity to compete to be appointed to carry out this work. In this context, it is important to bear in mind that the purpose of competition law and policy is to protect competition, not to protect firms that are having difficulty competing.

Having reviewed the type of preferred-repairer arrangements described in this Note, the Authority is of the view that such arrangements generally result in efficiencies which benefit consumers and that the essential terms of such arrangements therefore do not infringe Irish or EU competition law.

However, if it were shown that insurers or repairers were engaged in practices which may result in increased costs for consumers and which are not essential to achieving efficiencies, those practices would need to be assessed on their merits in order to determine whether they infringe Irish or EU competition law.

## 1. INTRODUCTION

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- 1.1 At some point in their lives, most people have to purchase some form of general insurance against risks such as theft, damage or liability to third parties. Although a particular policyholder does not know in advance whether s/he will ever have to make a claim, insurance companies can be certain that they will have to settle many claims each year. In order to do so, insurance companies have to pay for a wide range of different services, such as car repairs, building restoration and equipment repair or replacement. In order to control such costs and to settle claims quickly and efficiently, insurance companies may enter into contracts with repair service providers who agree to provide specified services on terms that have been agreed with the insurer in advance.<sup>1</sup>
- 1.2 “Preferred repairer arrangements”<sup>2</sup> (sometimes referred to as “approved repairer arrangements”<sup>3</sup>) are, broadly speaking, arrangements that insurance companies enter into with service providers to provide repair, restoration and replacement services to policy holders who make claims. Such arrangements are already common in the motor vehicle insurance sector and are starting to become used to a limited extent to settle home insurance claims.
- 1.3 Under the terms of some motor or home insurance policies, there may be strong financial incentives for the policyholder to use the insurer’s preferred repairer. Moreover, insurance policies may also encourage the use of preferred repairers by incorporating disincentives to the use of repairers who are not on the insurer’s preferred list. These can include higher ‘excess’ levels or a specified limit on the amount that the insurer will pay if another repairer is used.<sup>4</sup>
- 1.4 Preferred repairer arrangements affect not only policyholders but also repairers who are not on a preferred-repairer list. The Authority has received complaints which focus on the impact that these arrangements have on the ability of such repairers to attract claims-related work. Examples include windscreen repairs, collision repairs and building contracts.
- 1.5 This Guidance Note focuses on the competition implications of preferred repairer arrangements with specific reference to the motor and home insurance sectors. The Note has been published as an aid to policyholders, insurers and to those who provide, or wish to provide, repair services indemnified by insurance policies. It should not be considered a substitute for legal advice in specific cases. It is a statement of the Authority’s views on the subject-matter rather than a definitive interpretation of the law. It is ultimately a matter for the

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<sup>1</sup> In this Note, the term ‘repairer’ is intended to include all relevant service providers, whether the service they provide is that of repair, restoration or replacement (or other similar service covered by a given insurance policy).

<sup>2</sup> The terms ‘agreements’ and ‘arrangements’ are used interchangeably throughout this Note.

<sup>3</sup> For ease of reference, this Guidance Note uses the term ‘preferred repairer’. The term ‘approved repairer’ is widely used in the insurance market. It merely denotes that the repairer to whom it refers has an agreement with a particular insurer. It should be noted that the Authority does not consider it to be a term that denotes superiority in quality of service. Many service providers who do not have agreements with insurers (and are therefore not ‘approved’), are capable of providing a high standard of service to insurance policyholders.

<sup>4</sup> Excess refers to the first part of any insurance claim that a policyholder may have to pay her/himself. Source: National Consumer Agency See <http://www.nca.ie/nca/jargon-buster> for more details.

courts to decide whether a breach of Irish or EU competition law has occurred.

- 1.6 This document is structured as follows; Section 2 sets out the Authority's understanding of how insurance claims are settled in relation to motor vehicle and home insurance policies. Section 3 explains the Authority's views regarding the compatibility of these arrangements with both Irish and EU competition law. Finally, Section 4 details the Authority's conclusions.

## **2. INSURANCE CLAIMS SETTLEMENT AND REPAIRERS**

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### **How insurance claims are settled**

- 2.1 If an event giving rise to a claim covered by an insurance policy occurs, such as a vehicle collision or storm damage to a house, the policyholder (if deciding to make a claim) will notify the insurer of the incident and this begins the claims process. The insurer may send a representative to ascertain its liability under the terms of the policy. The insurer is often represented by a *loss adjustor*.<sup>5</sup> A policyholder may employ a *loss assessor*<sup>6</sup> or any other third party to represent his/her interests in dealing with the insurer.<sup>7</sup>
- 2.2 Depending on the terms of the particular insurance policy, the insurer can reinstate the damaged property to the condition it was in prior to the indemnified event or alternatively, compensate the policyholder for the value of the damage that occurred.
- 2.3 In order to restore the damaged property, the insurer may be entitled, under the terms of the particular policy, to specify a repairer to carry out the necessary work.
- 2.4 In order to reduce the costs of carrying out such repairs, insurers have sought to develop efficiency-enhancing relationships with particular repairers. The development of these agreements has led to the establishment by insurers of preferred repairer panels selected by each insurer.
- 2.5 Preferred repairer agreements are 'service level agreements' that set out in detail the terms on which the insurer will purchase services from the repairer. They specify the standard of service to be provided by the repairer and typically also include dispute resolution and performance monitoring clauses.<sup>8</sup>

### **Preferred Repairer Arrangements in the Motor Vehicle Sector**

- 2.6 Insurers in Ireland have been entering into agreements with specialised motor vehicle repairers for many years. For example, motor vehicle windscreen and other glass repairs are often undertaken under such arrangements by specialised glass repair companies and networks. These arrangements usually involve the insurers tendering for specialist repairers who replace and repair motor vehicle glass, with those who offer the highest quality/price ratio winning the tender.

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<sup>5</sup> A *loss adjustor* is a professional who is appointed by the insurer to investigate the circumstances of a claim under an insurance policy and to advise on the amount that is payable to the policyholder in order to settle that claim. Source: Irish Insurance Federation. See <http://www.iif.ie/ConsumerInformation/InsuranceTermsExplained/CompleteListing/tabid/163/language/en-GB/Default.aspx> for details.

<sup>6</sup> A *loss assessor* works on the policyholder's behalf and will often negotiate with the insurer to settle the claim. Assessors' fees are not covered by insurance policies. Source: National Consumer Agency. <http://www.nca.ie/nca/making-a-claim#settlement>.

<sup>7</sup> All insurers are legally obliged to ensure particular standards when settling claims under the terms of their authorisation by the Central Bank of Ireland. Insurance companies and insurance intermediaries must abide by the terms of the [Consumer Protection Code 2012](#).

<sup>8</sup> Based on research carried out by the Authority.

- 2.7 For other types of motor vehicle damage, the use of approved-repairer arrangements has become more common in recent years.<sup>9</sup> Many insurers have contracted with garages throughout the country to carry out repair services.
- 2.8 When an insured event occurs, such as an accident or breakdown, an insurer will often send a recovery vehicle to remove the damaged vehicle from its location and bring it to a garage with which the insurer has an agreement. After the 'scope of works' has been agreed between the insurer and the garage, the repairer undertakes the repair work and often bills the insurer directly for the work carried out.
- 2.9 Alternatively, the policyholder can elect to have the repair work done by a repairer of his/her own choice. However, in this case, many insurers will only pay up to a maximum amount based on what the repair work would cost if it were to be undertaken by a preferred repairer. The policyholder is responsible for any outstanding balance that may be due to his selected repairer. Furthermore, some policyholders may face a higher excess when using a repairer of their own choosing.

### **Preferred Repairer Arrangements in the Home/Building Repair Sector**

- 2.10 In recent years, some insurers have begun to use preferred repairer arrangements in relation to home insurance claims. Under these arrangements, an insurer enters 'service-level agreements' with a number of repairers in a particular geographic area. These repairers make up the insurer's 'panel' or 'network'. Sometimes a loss adjuster is responsible for negotiating the agreements on behalf of the insurer.<sup>10</sup>
- 2.11 When damage occurs to a house as a result of an insured event, members of the panel or network of repairers bid to carry out the necessary work. The winning bidder is then appointed by the insurer to repair and/or reinstate the property.<sup>11</sup>
- 2.12 It may still be possible for a builder outside the insurer's network to tender for the work, depending on the terms of the insurance policy. With some insurers, the policyholder can ask his/her nominated contractor to submit a quotation for the work. Irrespective of whether the winning tender originates from the insurer's panel or the policyholder's nominated contractor, the lowest tender is normally accepted.<sup>12</sup>

### **Comment**

- 2.13 The development of preferred repairer arrangements has led to insurers being more actively involved in claims management. Claims are the largest costs that insurers face. By entering 'service level agreements' with repairers, insurers are in a better position to manage and control these costs. Provided that insurance markets are relatively

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<sup>9</sup> This is most often the case in relation to comprehensive motor vehicle insurance which indemnifies damage to the owner's vehicle as well as third party vehicles.

<sup>10</sup> Based on research carried out by the Authority.

<sup>11</sup> For some categories of damage that entails significant cost and specialised expertise, such as subsidence or oil spills, the insurer may contract with one party without going through a formal tendering process.

<sup>12</sup> Based on research carried out by the Authority.

competitive, more effective claims costs management should benefit policyholders through lower premiums.

- 2.14 These arrangements can also bring other benefits to consumers. For instance, not having to search for a repairer can simplify the process of getting their home or vehicle repaired. Similarly, the development of preferred repairer arrangements has coincided with an increase in choice of ancillary services offered under insurance policies, such as towing, breakdown assistance and replacement vehicles. In addition the Central Bank's Consumer Protection Code provides that, in such cases, the insurer must certify that the repairs carried out restore the property to the condition it was in prior to the insured event taking place.<sup>13</sup>
- 2.15 However, these arrangements have also resulted in some restrictions. Insurance policies may contain incentives to use particular repairers. This may have the effect of restricting consumer choice in selecting who will carry out repair work. Furthermore, the use of these arrangements may affect repairers who do not have agreements with insurers by limiting their opportunities to provide services in cases where the repairs are the subject of an insurance claim.
- 2.16 The next section will assess the effect of these agreements from a competition perspective.

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<sup>13</sup> See Para. 3.12 below for more details



### 3. THE ARRANGEMENTS AND COMPETITION LAW

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#### Introduction

- 3.1 Section 4 of the Competition Act 2002 (“the Act”) and Article 101 of the Treaty on the Functioning of the European Union (TFEU) prohibit anti-competitive agreements between undertakings unless the agreements can be shown to be efficiency-enhancing and ultimately of benefit to consumers.<sup>14</sup>
- 3.2 The prohibitions on anti-competitive agreements contained in the Act and the TFEU are essentially the same. The only significant difference between them is that section 4 of the Act applies where the agreement may affect trade *in the State* whereas Article 101 TFEU applies only where the agreement may appreciably affect trade *between EU Member States*. The Authority follows European Commission guidance when applying EU competition law and, where relevant, takes it into account when applying the Act.
- 3.3 Preferred repairer arrangements are agreements between undertakings and their compatibility with Irish competition law needs to be considered by reference to Section 4 of the Act. Furthermore, since many of the arrangements entered into by insurers are nationwide in scope, they may be considered under Article 101 of the TFEU.<sup>15</sup>
- 3.4 We will now consider the likely effect on competition of the approved-repairer agreements described above.

#### Affected Markets

- 3.5 When property, such as a car or a house, is repaired, restored or replaced following a claim under an insurance policy, two distinct (albeit related) classes of markets may be affected:
- The markets where policyholders’ have purchased insurance policies, and
  - The markets on which service providers are active (e.g., garages which repair vehicles and building contractors and engineers who provide restoration services in settlement of home insurance claims).
- 3.6 It is unnecessary to examine the individual market segments affected (e.g., relating to particular types of insurance or particular types of repair services) since the general competition analysis of the issues

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<sup>14</sup> An undertaking is defined by the Act to be “a person being an individual, a body corporate or an unincorporated body of persons engaged for gain in the production, supply or distribution of goods or the provision of a service.” Although the term undertaking is not defined by the TFEU, EU case law has established that “... the concept of an undertaking encompasses every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed.” *Hofner v Macrotron; Case C 41/90 [1991]ECR I-1979* In relation to the issues discussed here, both insurers and repairers are undertakings within the meaning of the Act and the TFEU.

<sup>15</sup> Article 101 TFEU can come into effect when there is an “appreciable effect” on trade between Member States of the European Union. Agreements that impact on the whole of a Member State usually meet this criterion. See Commission Notice — Guidelines on the effect on trade concept contained in Articles 81 and 82 of the Treaty Official Journal C 101 , 27/04/2004 P. 0081 – 0096 for more details.

addressed in this Note in relation to the two classes of market referred to above would not change even if the individual segments were analysed in detail.

### **Assessment under Section 4 of the Act and/or Article 101 TFEU**

- 3.7 The large volume of work that stems from insurance-related repairs confers on insurers a degree of bargaining strength when contracting with repairers. The bargaining strength of insurers is enhanced by the practice of competitive tendering and this can act as a competitive constraint on repairers.<sup>16</sup> Repairers must compete on price and quality in order to win contracts to provide repair services under insurance claims. It is therefore unlikely that such contracts will have a negative effect on the parameters of competition such as higher costs, lower quality or less innovation.<sup>17</sup>
- 3.8 Moreover, there are certain aspects of these agreements that may be beneficial to consumers and the economy in general. We now look at some of the pro-consumer efficiency gains arising from preferred repairer arrangements.

#### **Efficiencies**

- 3.9 From an insurer's perspective, there are a number of reasons for entering into preferred-repairer arrangements:
- **Exploit scale economies:** An insurer can reduce the cost of claims by encouraging repairers to exploit economies of scale.<sup>18</sup> Being on a panel of preferred repairers' increases the likelihood of obtaining insurance claim related work. This means that such repairers may be able to obtain volume discounts on inputs at a lower cost than repairers who are involved in insurance claim related repair work only on an ad hoc basis.
  - **Reduce administration:** An insurer can reduce the administrative burden of settling claims through streamlining the claims settlement process and reducing the number of repairers that they have to deal with.
  - **Control claims costs:** Another efficiency that may be realised by insurers relates to the control of claims costs.<sup>19</sup> With the exception of the policy excess, insurance claims are a direct cost to insurers. But since the policyholder, rather than the insurer, receives the benefit of the repair, there is a risk that some repairers may exploit the fact that (once the excess has been exceeded) policyholders have less incentive to control the cost of the repair than they would if they had to pay the entire

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<sup>16</sup> The Authority's research indicates that insurers regularly tender out contracts for insurer-repair arrangements and audit the performance of the selected repairers.

<sup>17</sup> Para 16; Article 101 (3) Guidelines

<sup>18</sup> 'Economies of scale' refer to the phenomenon where the average cost per unit of output decreases with the increase in the scale or magnitude of the output being produced by a firm. In this context it means that repairers doing a large volume of repair work can do each repair job at a lower average cost than would otherwise be the case.

<sup>19</sup> Services such as motor vehicle repairs or complex home repairs such as flood damage repairs are referred to as 'credence goods'. Credence goods are goods for which the buyer may not know the true value even after purchase. This is due to the specialised knowledge necessary to provide the good, which may not be available to the buyer. Other examples of credence goods include medical treatments, many financial services and repairs of complex products such as computers.

cost themselves. By agreeing in advance the price and services to be provided, the insurer can reduce the risk of a repairer exploiting the difference between the interests of the insurer, on the one hand and the policyholder, on the other.

### **Consumer benefits**

- 3.10 One of the benefits of preferred repairer arrangements is that policyholders have easy access to repairs. For instance, if a policyholder needs a windscreen to be replaced, it is convenient to have speedy access to a specialist windscreen repairer. Instead of having to find one themselves and negotiate the terms, they just go to the preferred repairer to obtain the required service for the price already agreed between the insurer and the repairer.
- 3.11 Similarly for home insurance, the appointment of a preferred repairer by the insurer relieves the policyholder of selecting the service provider and negotiating the terms on which the service will be provided.
- 3.12 Furthermore, where repairs have been carried out by an insurer's preferred repairer, the policyholder has the protection of the provisions of the Central Bank's Consumer Protection Code 2012 in relation to the quality of the work done.<sup>20</sup>
- 3.13 Some consumers may wish to use a particular repairer who does not have an agreement with their insurer. These consumers may feel that preferred repairer arrangements discourage them from doing this.
- 3.14 However, competition law does not require that each individual consumer receives the benefits arising from particular agreements. The European Commission states that:

The decisive factor is the overall impact on consumers of the products within the relevant market and not the impact on individual members of this group of consumers.<sup>21</sup>

- 3.15 The fact that the processing of claims and repairs for most motor and home insurance policyholders is simplified and made more efficient through the operation of these arrangements is likely, in the Authority's view, to outweigh the possible negative effect on individual consumers who may wish to have repairs undertaken by their own chosen repairer but find it more difficult to do so due to these agreements.

### **Exclusivity in the context of preferred repairer arrangements**

- 3.16 One possible effect of preferred repairer arrangements that needs to be considered is what is known as anti-competitive foreclosure. This arises where firms are unable to access a significant proportion of the relevant market due to the effect of an agreement or network of agreements. In the context of preferred repairer arrangements, the issues are, on the one hand, whether the arrangements might prevent insurers accessing the services of repairers or, on the other, whether

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<sup>20</sup> Para. 7.14 (b); "Where a method of direct settlement has been used, a regulated entity...must certify...to the claimant that the restitution work carried out by the third party appointed by the insurance undertaking has been carried out to restore the claimant's property at least to the standard that existed prior to the insured event."

<sup>21</sup> Para 87; European Commission; 2010; Guidelines on Vertical Restraints

they might prevent repairers who do not have agreements with insurers from competing for business from insurers. While no individual agreement is capable of leading to a significant foreclosure effect, this could arise if there were numerous long-term exclusive agreements between insurers and preferred repairers.

- 3.17 For example, if such agreements obliged insurers to use only one particular firm for all windscreen repairs or obliged a preferred repairer to provide his services to only one insurer, this could reduce the number of options available to other market participants.
- 3.18 The Authority's research has found no evidence that the preferred repairer arrangements are exclusive. This means that insurers are free to enter into agreements with any repairer of their choosing and similarly, repairers are free to compete for insurance claim related business with any insurer. The Authority therefore takes the view that neither individual repairer agreements, nor the cumulative effect of all the preferred repairer arrangements in place, are likely to give rise to the opportunity to eliminate competition to a significant extent.

### **The treatment of preferred repairer arrangements in other countries**

- 3.19 The Organisation for Economic Cooperation and Development ("OECD") has highlighted the fact that although preferred repairer arrangements may seem to limit consumer choice, they are of benefit as they help control and reduce the cost of insurance claims:

...it can be difficult to understand what (seen from the supply side) may seem to be unduly restrictive agreements without an understanding of the way the demand side of a market works. Agreements whereby insurers steer consumers to particular suppliers of smash repair services by requiring consumers to only use designated repairers are a case in point. Those agreements may seem to restrict competition for smash repair services. However, their primary justification lies in the way they limit the moral hazard problems that would otherwise arise in the market for smash repair services. Those moral hazard problems arise because consumers do not bear the full costs of the repair services, while the quality of repairs is often difficult to fully observe. By seeming to limit consumer choice, the insurer can both reduce costs and increase quality directly and provide incentives for smash repairers to compete on the basis of cost and quality, rather than by exploiting consumers and insurers.<sup>22</sup>

- 3.20 In the United States, the Courts have found that such arrangements are not anti-competitive.<sup>23</sup> In *Proctor v. State Farm*, a case concerning agreements between a motor insurer and repair shops, the US Court of Appeals found that:

The ... vertical agreements alleged in this case represent the effort of individual [insurers] to secure the services of automobile body repair shops at the lowest possible cost and on the terms most advantageous to them. ...such agreements are not anti-competitive in purpose or effect... [Insurers] may well have been able to secure volume discounts and similar advantages from certain repair shops; however, the Sherman Act<sup>24</sup> was not designed to disallow discounts or other preferential treatment for volume customers.<sup>25</sup>

- 3.21 Similarly, in *Quality vs Allstate*, the US Court of Appeal found that

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<sup>22</sup> Para 4.1.2 The Interface between Competition and Consumer Policies; OECD Roundtable; 2008

<sup>23</sup> See *Proctor vs State Farm and Workman vs State Farm*.

<sup>24</sup> The Sherman Act is the US equivalent of the Competition Act 2002.

<sup>25</sup> Para 112; *Proctor vs State Farm*; March 16<sup>th</sup> 1982

Under the implicit terms of these alleged agreements, a shop which performs repair work at the company's prevailing competitive rate can expect to be placed on a "preferred" list and receive a steady stream of referrals from claim adjusters. A contract of this nature between a buyer (the insurance company) and a seller (the body shop) generally does not, without more, appear to violate the antitrust laws at all. Only if such an agreement contains restrictions on one party's activities other than those involved in the immediate purchase and sale does the possibility of a Sherman Act violation arise. In refusing to pay a price higher than what they regard as the competitive rate, defendants have not imposed any restriction on the repair shops beyond the immediate sales transaction. Defendants are simply taking steps to ensure the best terms available in the marketplace and firmly indicating their position on price to the seller (the body shops).<sup>26</sup>

3.22 In the UK, the Office of Fair Trade ("OFT") has found in relation to the use of approved windscreen and vehicle body repairers, that:

"...the schemes appear to offer consumers benefits of speed and convenience. National coverage of glass replacement schemes allow motorists to contact the nearest fitter in an emergency, so that glass can be replaced immediately. The arrangements made by insurance companies with recommended body shops remove the otherwise unavoidable delays of obtaining the competing estimates..."<sup>27</sup>

3.23 However, it should be noted in this context that on 28 September 2012, the OFT made a reference to the Competition Commission requesting an investigation into the private motor insurance market in the UK. Specifically, the OFT is concerned that the manner in which motor insurance claims are dealt with in the UK means that the insurers of 'at-fault' drivers have little control over the bills submitted to them by insurers of 'not-at-fault' drivers and that this may be leading to higher costs for insurers and policyholders.<sup>28</sup> However, preferred repairer arrangements are not, in themselves, a source of concern for the OFT and it made no finding of infringement of UK or EU competition law. The OFT's concerns relate to the claims settlement process and the risk that this enables insurers of 'not-at-fault' drivers to inflate their costs unduly, to the detriment of policyholders generally. The issues that are the focus of the OFT's referral, are not, to the knowledge of the Competition Authority, a significant feature of the claims process in Ireland.<sup>29</sup>

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<sup>26</sup> Para 30; *Quality Auto Body Inc v. Allstate Insurance Company*; 1981

<sup>27</sup> OFT Press Release No.48/93; 22<sup>nd</sup> July 1993. See <http://www.offt.gov.uk/news-and-updates/press/2012/85-12> for details

<sup>28</sup> The matter was referred to the Competition Commission by the OFT for a market study because the Competition Commission has the power to impose statutory remedies to deal with market dysfunction which are not available to the OFT

<sup>29</sup> See <http://www.offt.gov.uk/news-and-updates/press/2012/85-12> for details

## 4. CONCLUSIONS

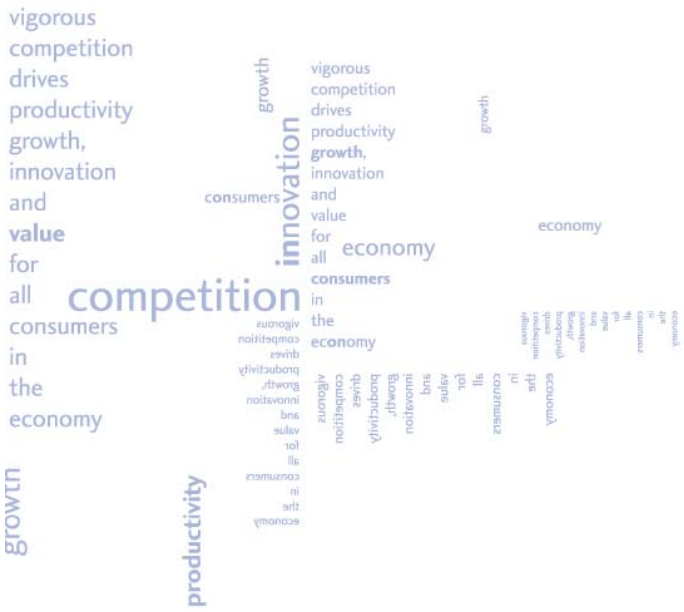
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- 4.1 By entering into preferred repairer agreements of the kind discussed in this Note, insurers can reduce the cost of settling claims in a number of different ways:
- They can benefit from reduced costs by encouraging repairers to exploit economies of scale and other efficiencies. Preferred repairers can exploit such economies (e.g., through the bulk purchase of spare parts or building materials) because they are likely to have a higher volume of repair work than they would have had if they had not entered into the agreements;
  - By agreeing the price and service level in advance, insurers can reduce the likelihood of the insurer paying more than the true cost of repairs; and
  - Insurers can also reduce the administrative cost of processing claims because without preferred repairer arrangements they would have to negotiate the cost of each individual claim separately.
- 4.2 These agreements can also benefit policyholders. When a preferred-repairer agreement is in place, policyholders do not have to spend time and effort searching for someone to repair the damage, including gathering quotes. Policyholders also have the benefit of the requirements of the Central Bank's Consumer Protection Code whereby the insurer must certify, in such cases, that the damaged property has been restored to the condition it was in prior to the insured event.
- 4.3 From a preferred repairer's perspective, these arrangements may also bring benefits. A preferred repairer can increase the likelihood of new business by entering into these agreements.
- 4.4 Although repairers without preferred repairer agreements may find it more difficult to obtain insurance related work, the purpose of competition law and policy is to protect competition, not firms who are having difficulty competing. As the Commission notes:
- The ultimate aim of Article 101 is to protect the competitive process.<sup>30</sup>
- 4.5 The Authority is therefore of the opinion that the essential concept and structure of preferred repairer agreements described in this Note do not infringe Section 4 of the Act and/or Article 101 TFEU.<sup>31</sup>

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<sup>30</sup> Ibid

<sup>31</sup> This analysis is based on the information available to us at this time, and our understanding of the law as it is today. There may, however, be circumstances when a particular agreement could be considered to involve a breach of competition law.



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