FAIR TRADING COMMISSION

INDUSTRY STUDY INTO MOTOR VEHICLE INSURANCE SECTOR

2015

52-60 Grenada Crescent, Kingston 5, Jamaica W.I.

Industry Study into Motor Vehicle Insurance Sector

December 2015

FAIR TRADING COMMISSION

52-60 Grenada Crescent, Kingston 5, Jamaica W.I.
Tel (876) 960-0120-4 Fax (876) 960-0763
E-mail: ftc@cwjamaica.com Website: www.jftc.gov.jm
Facebook.com/ftc.jamaica

AUTHORS
Verlis Morris, Competition Analyst
Marc Jones, Legal Officer

RESEARCH ASSISTANCE
Paul Cooper, Research Officer

Contents

A. BACKGROUND

1. The future is unknown and consequently, risks are inherent. Risks, specifically downside risks, can result in large losses which can deplete the resources of a person. On the other hand, there may be future outcomes which may result in substantial gains (upside risks). Most persons, however, are concerned with the effects of downside risks; insurance is used to lessen the effects of these risks.

2. Insurance is an agreement in which one party (the policyholder) makes periodic payments called premiums to another party (the insurer) who agrees to pay the policy holder a defined sum (claim payment or benefit) in the event of a specific loss.[1] Specifically, motor vehicle insurance is insurance purchased for cars, trucks, motorcycles and any other motorized road vehicles. This prevents the policyholder from bearing the total costs of losses arising from damage and/or bodily injury resulting from traffic collisions, theft of the vehicle or other damage caused to the vehicle. Instead, the insurance company offset a significant portion of the costs.

3. In Jamaica, motor vehicle insurance is offered by general insurance companies which are the underwriters for policies, sales agents, brokers and account executives. As at June 2015, there are 22 insurance agents, 26 insurance brokers and 10 general insurance companies that are licensed to offer motor vehicle insurance.[2]

B. Introduction

4. Motor vehicle insurance is offered in the wider financial services industry. This industry is regulated and by extension the class of insurance referred to as motor vehicle insurance. According to the Financial Services Commission (FSC), regulation is necessary to prevent a collapse of the of the industry losses to consumers.

[1] Anderson, Judy Feldman and Robert L. Brown; (2005) "*Risk and Insurance";* Education and Examination Committee of the Society of Actuaries.
[2] FSC Annual Report 2014-2015

5. In this study, we assess the level of competition in this industry, the benefits or harms caused by increased regulation and ease of entry. We also looked at the characteristics of the insurance market and how these characteristics impede or facilitates competition.

6. The rest of the study report follows. Section C covers the legislative framework which empowers the regulator to carry out its mandate and its impact on the motor vehicle insurance market. In section D, we do a background of the industry, define the market in section E and assess the structure of the market in section F. We consider whether the market is conducive to entry in section G, assess the economic conditions in section H and close in section I.

C. Legislative Framework

I. Introduction

7. This review is part of the Fair Trading Commission's industry study into the motor vehicle insurance industry in Jamaica. The study is to identify market impediments, including barriers to entry/exit, in the industry. Bearing this objective in mind, the review considers the legal framework in which the industry operates.

8. The legal framework includes the Insurance Act 2001 as its centrepiece together with regulations made thereunder.[3] In this framework the regulator is the Financial Services Commission. Other relevant legislation includes the Companies Act and the Motor Vehicles Insurance (Third-Party Risks) Act.

9. To understand the framework, particularly the 2001 act and regulations, it is necessary to be aware of the financial sector crisis in the middle of the 1990's. This crisis involved high profile corporate failures in the life insurance industry. This occurred under the now repealed Insurance Act of 1972 with its Office of the Superintendent of Insurance (OSI) as the regulator. "Some commentators…blamed poor supervision by regulators as one of the reasons for the demise of

[3] The insurance Regulations 2001

the domestic financial sector"[4] and "in the life insurance sector…regulations and staff were inadequate."[5]

10. This mindset informed the development and enactment of the 2001 act and regulations and it is evidenced in stringent registration requirements, robust standards regarding solvency, corporate governance and market conduct among other things, and a pro-active regulator in the Financial Services Commission (hereinafter the "FSC").

II. Relevant definitions

11. In the legal framework identified above, concepts such as a "motor vehicle insurance policy" or "motor vehicle insurance business" have specified legal meanings prescribed by statute.

12. The Insurance Act (hereinafter "the Act") defines "motor vehicle insurance business" to mean "the business of effecting contracts of insurance against loss of, or damage to or arising out of or in connection with the use of, motor vehicles, including third-party risks."

13. The Act also identifies and defines another type of insurance business called "accident insurance business". "Accident insurance business" is defined as "the business of effecting and carrying out contracts of insurance…against the risk of the person insured sustaining injury or dying as a result of an accident, or of an accident of a specified type, which provides for fixed pecuniary benefits or benefits in the nature of an indemnity or both".

14. These definitions are relevant to the review in two respects. Firstly registration under the Act is done in relation to specific classes of insurance business.[6] Secondly, parts of the Act may not apply to motor vehicle insurance business or accident insurance business.[7]

15. "Motor vehicle insurance policy" is not specifically defined; but section 5(1) of the Motor Vehicles Insurance (Third-Party Risks) Act broadly indicates the general content of such a policy. Under section 5(1) a policy that is compliant with that Act is one that is issued by an insurer and

---

4 Chen Young, P. "*The Entrepreneurial Journey in Jamaica When Policies Derail",* page 134 as located in CE, Stephens *"FSC Capital & Risk Management Seminar – Market Conduct Regulation for the Jamaican Insurance Industry: A personal perspective"*, March 24, 2006.

5 Stephens, CE. *The Gleaner*, April 8, 1998 "OSI reform long overdue".

6 Section 7(1) of the Act.

7 For example, Part V of the Act.

which "insures such person, persons or classes of persons, as may be specified in the policy, against any liability incurred by him or them in respect of (1) the death of, or injury to, any person and (2) any damage to property, caused by or arising out of the use of the motor vehicle on the road."

16. Based on the foregoing, an insurance policy concerning the use of a motor vehicle, *depending on its precise terms*, may be issued by an insurer registered to carry on either motor vehicle insurance business or accident insurance business or both.

III. Insurers

a. Registration requirements:

17. The Act restricts "who" can carry on insurance business in Jamaica.[8] Section 6 provides that "no person other than a body corporate shall carry on insurance business in Jamaica." One consequence of this provision is that only incorporated legal entities such as a company can enter and operate as an insurer in the market. A natural person or a partnership may not be able to do so. Another consequence which flows from section 6 is that the provisions of the Companies Act may be implicated once the insurer or potential insurer is a company, which is usually the case.

18. So that from inception, if an entity intending to enter the market is a company, then compliance with the regulatory regime of the Companies Act is a first step. This may involve satisfying among other things the minimum allotted share capital required for "for profit" companies under the Act, which is five hundred thousand dollars ($500,000.00). Entrants may also incur further costs in complying with the corporate governance requirements of the Companies Act such as preparation of annual returns to the Registrar of Companies, conducting annual general meetings, preparation of financial statements such as balance sheets and the associated professional fees for accountants and auditors. Exit from the market may require compliance with the winding up procedure under the Companies Act, which usually contemplates court action and accordingly legal fees.

---

8 Based on section 3(1) of the Act motor vehicle insurance is one of the classes of insurance business in Jamaica.

19. In addition to satisfying the foregoing requirements, a potential entrant must comply with more stringent requirements under the Insurance Act 2001. The first of such is registration by the Financial Services Commission.[9] Although the Act does not prescribe any limit on the number of registrants, grant of registration is not automatic, with the FSC having the discretion to refuse (or subsequently suspend/cancel) same if prescribed conditions are not satisfied.[10]

20. There are also some restrictions on registration. Section 7(1) indicates that registration is in respect of particular classes of insurance business, for example long term insurance business as opposed to motor vehicle insurance business.

21. Furthermore section 8 prohibits insurance companies from carrying on both long term[11] and general insurance[12] business, *unless* the general insurance business consists exclusively of accident insurance business. This restriction may discourage entry into the market if, for example, a potential entrant is required to give up its existing life insurance business in order to be registered to carry on motor vehicle insurance business.[13] Although in practice a large insurer may not be hindered by this restriction depending on its corporate structure in terms of the use of subsidiaries.

22. Registration is also capital intensive and costly. Section 9 of the Act prohibits registration unless the potential entrant has (1) paid-up and surplus capital in the prescribed amount and (2) made the prescribed deposit with the FSC. The Insurance Regulations 2001 (hereinafter "the Regulations") prescribe the required amounts. Based on Regulation 14, a potential entrant must have minimum paid-up and surplus capital of ninety million dollars ($90,000,000.00).

23. Furthermore Regulation 8 requires the deposit of prescribed types of assets totalling forty-five million dollars ($45,000,000.00) in value. This is a minimum value as the Regulation empowers

9 Section 7(1) of the Act.

10 Section 11(1) of the Act.

11 Broadly speaking "long term business" under the Act involves health, life and industrial life insurance. It does ***not*** include motor vehicle or accident insurance.

12 Broadly speaking "general insurance business" under the Act involves any type of insurance except long term business, and includes motor vehicle or accident insurance.

13 Note that the restriction may not apply if the entrant is going to issue only accident insurance policies.

the FSC to increase the amount of the deposit at any time to such amount as it considers necessary.[14]

24. The prescribed types of assets which may be deposited are: "(a) cash; (b) unencumbered securities of, or guaranteed by, the government; (c) other securities, at an accepted value and on the conditions established by the FSC; or (d) any combination of (a) to (c)".[15] There is also a "continuing obligation" on insurers to maintain the value of the deposit insofar as the FSC may require them to add more assets if the market value of the deposit falls below the value at the time it were deposited.[16]

25. Section 11(1) of the Act and Regulation 6 prescribe the conditions that must be met to the FSC's satisfaction in order to become registered. Some of these conditions are:
    (a) The potential entrant is or will be solvent within the meaning of the Act, the Regulations and any directive of the FSC;
    (b) Where applicable, the entrant has made adequate arrangements for reinsurance of the class of insurance business in which it intends to engage;
    (c) The person holding or to be appointed to hold the office of managing director; chief executive officer or principal representative of the applicant is of good character and is a fit and proper person to hold that office;[17]
    (d) The potential entrant has appointed or will appoint an actuary and an auditor, as required by the Act, the Regulations or any directive of the FSC.

26. If a firm successfully registers then it will be granted a certificate of registration that will state the class or classes of insurance business for which it is registered. The certificate may be considered akin to a license, and in this sense there is a restriction insofar as it is not tradable or

14 Regulation 8(2).
15 Regulation 16.
16 Regulation 9.
17 Generally this requires satisfying the FSC of among other things, the honesty and integrity of those persons. For example the FSC may not be satisfied if the person who is intended to be the CEO of a potential entrant has been adjudged bankrupt by a court of law or has been convicted of an offence involving dishonesty.

capable of being specifically purchased by any other entity.[18] All potential entrants must undergo the rigors of the registration process, under the supervision and discretion of the FSC, to obtain same. Foreign-based entrants undergo the same process but with additional requirements, for example, they must have carried on insurance business in their country of incorporation for at least five (5) years prior to applying for registration in Jamaica.

b. Amalgamations or transfers between insurance companies:

27. Section 31 of the Act provides that an insurance company may enter into an agreement or arrangement to either amalgamate its property or insurance business with, or to transfer its insurance business to another insurance company. The section effectively deals with mergers and acquisitions in the market, and makes it clear that the same are regulated by the FSC. In this regard mergers and acquisitions require FSC approval, although the application for approval may be made after completion of the transaction.[19] The effect of approval is to make the amalgamation or transfer binding on the parties, all their shareholders, members and policyholders.[20] Furthermore FSC approval is a precursor for the making of a vesting order under the Act by the responsible Minister, which may provide benefits such as certain tax exemptions.[21]

28. Generally, the statutory provisions prescribe a procedure for approval that is FSC-driven, in which the interests of policyholders loom large. For example section 33(4)(d)(ii) requires the FSC to be satisfied that the “acquisition, amalgamation or transfer is not detrimental to the policyholders.”

c. Minimum requirements for motor vehicle insurance policies:

29. The Motor Vehicles Insurance (Third-Party Risks) Act prescribes certain minimum requirements in respect of motor vehicle insurance policies.[22] A policy which does not meet the requirements may be in breach of that Act. In this sense the freedom of entrants or competitors in the market to offer products as they see fit may be limited. For example, generally in respect of death or

---

18 Although “the licence” of an existing insurer could be acquired as part of a sale of business or assets, but even then, such a transaction would be subject to FSC approval under the amalgamation and transfer provisions of the Act.

19 Section 31(5) of the Act.

20 Section 34 of the Act.

21 Section 35 of the Act.

22 Section 5, Motor Vehicles Insurance (Third-Party Risks) Act.

bodily injury claims, motor vehicle insurance policies must provide coverage of *not less than* one million dollars ($1,000,000.00) for liability to any one person.[23] Furthermore generally in respect of property damage claims, policies must provide coverage of *not less than* five hundred thousand dollars ($500,000.00) for liability to any one person.[24]

d. Liquidation:

30. Competitors may exit the market by way of liquidation under the Companies Act. The Insurance Act 2001 contains additional provisions that are specific to liquidation of insurance companies. Of relevance are the provisions which empower the FSC to commence liquidation proceedings if certain prescribed grounds are met. These include if the FSC is satisfied after an investigation of a particular insurance company that it is in the interests of its policyholders for it to be wound up.

IV. Insurance Intermediaries

31. The Act defines "insurance intermediary" as "an agent… broker…sales representative…or such other persons carrying on any business connected with insurance as may be prescribed." Like insurers, the Act requires persons seeking to carry on business as insurance intermediaries to be registered with the FSC. However the registration requirements are not as stringent as those for insurers.[25]

32. There are however some general restrictions on registration. In sum these are:[26]
    (a) No person shall be registered as an agent or sales representative of an insurance company unless that company is also registered under the Act.
    (b) If a broker is a body corporate (such as a company), persons employed to it may not be registered as agents or sale representative, unless the broker is also registered under the Act.

23 Section 5(2)(a), Motor Vehicles Insurance (Third-Party Risks) Act.
24 Section 5(3)(a), Motor Vehicles Insurance (Third-Party Risks) Act.
25 Although there is a fee prescribed by the FSC.
26 Section 72 of the Insurance Act 2001

(c) No person carrying on business as an insurer, agent or sale representative shall be registered as a broker, and a broker shall not be registered as those types of persons under the Act.

(d) A body corporate applying for registration as a broker shall not be so registered unless it satisfies such minimum capital and bond insurance coverage as prescribed by the FSC. Two types of bond insurance coverage are required; these are, Errors and Omission and Fidelity Guarantee insurance coverage. The minimum level of coverage for each is thirty million dollars ($30,000,000.00). Minimum capital requirement is paid-up share capital and unencumbered surplus of not less than an amount equal to the maximum deductible of the bond coverage or ten million dollars ($10,000,000.00) whichever is greater.

33. Outside of these prescriptions, registration for insurance intermediaries is also at the discretion of the FSC, which must be satisfied of certain conditions. One condition specific to brokers is that the FSC must be satisfied that there is no agreement relating to the preferential offer of insurance business between the applicant and an insurer as might impair the applicant's impartiality in placing insurance business.

34. Similar to insurers, the end result of successful registration is the grant of a certificate of registration by the FSC. As has been discussed, the certificate is not tradable and registration may be cancelled or suspended by the FSC in accordance with the Act.

V. Conclusion

35. The foregoing review reveals that various stakeholders in the motor vehicle insurance industry such as insurers, brokers and sale representatives are heavily regulated. Entry into the market is subject to the control and discretion of the FSC as the regulatory gate-keeper. Entry is also capital intensive and costly, and there are restrictions in terms of "who" can enter. Movement within the market in terms of mergers and acquisitions, and exit therefrom are also subject to FSC oversight. These regulations are to be understood in the context of the lessons learnt from the 1990's financial sector crisis and the resultant emphasis on protecting the investing public, which includes holders of insurance policies.

D. Industry Background

E. A history of the industry enhances the evaluation of the current industry conditions and the environment of the motor vehicle insurance industry. This section highlights information that is useful in assessing the effects of competitive constraints, if any, in this industry.

F. Motor vehicle insurance (“insurance”) services provide consumers the ability to compensate for losses resulting from motor vehicle accidents. This industry is facilitated by a large group of consumers making regular payments to an insurance company which makes payments to offset losses incurred by some of the persons in the group. Providers in the industry are profitable if they are able to set these regular payments so that total losses suffered by the group can be covered as well as operating expenses.

G. In Jamaica, one of the main functions of the regulatory body is to protect consumers from insurance providers’ inability to make claim payments. The regulator does so by setting liquidity standards, among other things, to ensure companies can make claim payments when they occur. Insurance company safeguard their liquidity by also investing in government papers and other financial instruments approved by the regulator. The stronger regulatory regime stem from Jamaica’s financial meltdown in the 1990’s that affected both financial institutions and their customers. Since then the wider financial sector has remain robust.

A. Brief History of General Insurance Companies

H. Currently, there are seven insurance companies offering motor vehicle insurance. Motor vehicle insurance is compulsory; however some companies do not offer some classes of motor vehicle insurance. For example, public passenger vehicles and insurance for motor bikes are not offered by all general insurance companies. The dynamics of product offerings is linked to how companies evolved over the years. In the rest of this section, we will give a brief history on each of the eight companies offering motor vehicle insurance.

I. During the early 1960’s general insurance was often provided by overseas companies through their agents that operated locally. By 1977, the government started encouraging local ownership of insurance company and we have observed that almost all general insurers transitioned from foreign owned to Jamaican owned or to a company where the majority shareholder is a Jamaican company.

J. Guardian General's history dates as far back as 1826 and has gone through several changes including mergers, acquisitions and name changes. The first Jamaican branch was formed in 1969 under the name Alliance Caribbean Operations. In 1975, the company was rebranded West Indies Alliance Insurance Company Ltd, a consolidation of Sun Alliance and London Insurance. It then changes its name to Royal & Sun Alliance Insurance Ltd in 1997 when Royal Insurance and the Sun Alliance Group merged. The name reverted to West Indies Alliance when Guardian Holding Ltd bought the company in 2000. In 2002, the company became a subsidiary of Guardian General Insurance Ltd which also has other general insurance subsidiaries. The final name change occurred in 2012 when Guardian General acquired Globe Insurance and rebranded the company Guardian General Insurance Jamaica Ltd.[27] Guardian General provides coverage for motor, home and content, contractor, liability, pecuniary losses and marine.

K. Jamaica National General Insurance Company Ltd (JNGI) has a similar history to Guardian. Its history can be traced as far back as 1934. In its more recent history, Jamaica National Building Society acquired the company when it became a majority share holder. At that time the company was called NEM Insurance. In 2012, it was rebranded to its current name. The company offers motor, business and homeowner insurance.[28]

L. British Caribbean Insurance Company (BCIC) started operations 1963 as part of the ICD Group Ltd. In 2010, it merged with Victoria Mutual Insurance Company, a subsidiary of the Victoria Mutual Building Society. The company is now partly owned by the ICD Group and the Building Society. [29]

M. Insurance Company of the West Indies (ICWI) was founded in 1968 and provides insurance to four other Caribbean countries. The ICWI grew through merger and acquisitions.[30]

[27] http://jamaica.myguardiangroup.com/guardian-general-insurance-jamaica/about_us/; last accessed October 27, 2014
[28] http://www.jngijamaica.com/about-us; last accessed October 28, 2014
[29] http://bcicjamaica.com/about.htm; last accessed October 23, 2014
[30] http://icwi.com/jamaica/about-us/; last accessed October 24, 2014

N. Advantage General was formed in 1964 and in 1986 the company was known as United General Insurance Company.[31] Advantage General, like other general insurance company, went through changes in ownership ending with Michael Lee Chin purchasing 80% of its share and then finally NCB Capital Markets owning the company fully.[32] Thus, making Advantage General a fully owned subsidiary of the NCB Group.

O. In 1981, General Accident was formed as a joint-venture between Musson Jamaica Ltd and General Accident Fire & Life Assurance, an international company. Musson took full control of the company in 1998. General Accident provides coverage for accident, liability, marine aviation & transport, motor vehicle, pecuniary loss and property.[33] Based on the company's website, the company tries to capture the segment of the market comprising female drivers and mature males.

P. GK Insurance, formerly Jamaica International Insurance Company (JIIC), started operations in 1981 as a subsidiary of the Grace Kennedy Group. Its major product offering are home insurance and motor vehicle insurance. In 2007, JIIC purchased the assets of Dyoll, a general insurer that had to exit the market due to its inability to honour claims which resulted from damages caused by Hurricane Dean. So far, Dyoll has been the only general insurer that exited the market.

Q. Key Insurance is one of the younger general insurance companies. It was incorporated in 1982 currently offers property, motor, travel and contractor insurance.[34]

B. General Conditions

R. A profile of consumers is useful in assessing the level of competition which exists in the motor vehicle insurance industry. In a market where consumers perceive no differences among providers' offerings then that market is more competitive than a market where differences are detected.

[31] https://www.advantagegeneral.com/About-Us/Company-Profile; last accessed October 29, 2014
[32] Interview with Solid Life & General Insurance Brokers
[33] http://www.genac.com/overview.php?id=1; last accessed October 24, 2014
[34] http://www.keyinsurancejamaica.com/about; last accessed October 24, 2014

S. Consumers comprise drivers of motorized vehicles on the Jamaican roads. One of the requirements for vehicles to be operated on a public thoroughfare is the acquisition of motor vehicle insurance. Consumers demand for a specific insurance policy depends on the type of vehicle, the purpose of the vehicle and, to a lesser extent, whether there is a lien on the vehicle. For instance, a haulage truck driver will demand a different policy from someone who drives a motor car for domestic reasons. Likewise, a driver with a ten year old vehicle will likely demand a third party insurance while an individual with a new car will likely take a comprehensive insurance package.

E. Market Definition

A. Analytical Framework and Overview

63. To evaluate the competition level in an industry, we identify the relevant markets specific to this study. Once the relevant markets have been identified, we will assess whether and the extent to which providers' behaviour facilitates competition among them. The identification of the relevant market is also useful in designing appropriate recommendations, if necessary, to avert or at least mitigate any anticompetitive effects in the industry.

64. The relevant market, for the purpose of assessing competition, is a product (service), or group of products (services), and a geographic area in which it is supplied such that a hypothetical profit-maximising supplier, not subject to price regulation, that was the only present and future supplier in that area, would likely impose a small, but significant and nontransitory increase in price assuming the terms of sale of all other products (services) are held constant.[35]

65. There are ten general insurers of which eight provide motor vehicle insurance. In the insurance industry, motor vehicle insurance is considered to be a class of business. Motor vehicle insurance, however, is divided into subcategories which are not necessarily substitutes for each other. The main subcategories include comprehensive and third party; these are further divided into types of cover.

B. The Product Market

66. The staff recognises that the broader motor vehicle insurance market comprises several sub-markets. We note that insurers provide motor vehicle insurance in the following three broad

[35] US Horizontal Merger Guidelines. 2010

categories: comprehensive, third party and other coverage. Individual motorists, however, may view at least two of these types of coverage as close substitutes. For example, a motorist whose motor vehicle is lien free can opt between a comprehensive coverage and a third party coverage. These two types of coverage get very similar when theft and fire is also covered under the third party package. This is demonstrated in the UK market when third party premiums increased, consumers switched to comprehensive coverage to the extent that providers stop offering third party coverage.[36] Consequently, types of coverage make poor demarcation for the sub-markets within the motor insurance market.

67. Insurers divide their customers into risk pools. Risk pools are large groups of customers whose projected claim costs are combined to calculate premiums. These pools comprise similar risks and allow for customers at higher risks of meeting in an accident to be subsidised by those who are at a lower risk of doing so.[37] For example, a tanker driver and a motor cyclist would be in different risk pools. Thus, a hypothetical profit maximising monopolist who is not subjected to regulation could profitably impose a small, but significant and nontransitory increase in premiums on a tanker driver. This is so because the tanker driver is unable to switch (legally) to another risk pool. Consequently, the Staff believes that sub-markets exists based on risk pools.

C. The Geographic Market

68. The geographic market in assessing the level of competition in the motor vehicle insurance industry is Jamaica.

69. There are some risk pools whose size is too small to cover the possible risks; for example the pool of tanker drivers. In these instances, insurers reinsure these risks with international companies. Likewise, some insurers operate in multiple countries. We have observed that it is possible for an insurer's losses in one country to affect its operation in another country to the extent that it may have to exit the latter country.

70. Even though we consider these characteristics of the industry, the Staff believes these relationships are unlikely to impact the relationship among insurers in Jamaica or the relationship between Jamaican consumers and insurers operating in Jamaica. Insurers that

[36]

[37] Critical Issues in Health Reform: Risk Pooling. 2009

operate abroad only cannot offer insurance to local consumers so Jamaican entities compete only among themselves.

D. Conclusion

71. Our overall conclusion in this section is that the market relevant for analyzing the level of competition comprises the various risk pools in the motor vehicle insurance sector in Jamaica.

F. Market Structure

A. Analysis Framework

72. Competition authorities routinely assess whether and the extent to which participants in the relevant market is likely to exercise market power individually through their actions taken independently of other participants and collectively through the coordinated interaction among the group, or sub-group, of participants. It is typical for such assessments to rely on the Hefindhal-Hirschman Index (HHI) which measures supplier concentration, as is outlined in the *US Horizontal Merger Guidelines.* The Staff's interest in seller concentration is underpinned by the observation that unilateral actions and coordinated interaction which give rise to adverse competitive effects are more likely in markets which are highly concentrated, especially when there are significant impediments to entry, among other factors.

73. The Staff concludes that the level of concentration varies depending on the sub-market within the industry. For instance, motor cyclist insurance market is highly concentrated while private motorist insurance market has a relatively lower concentration.

B. Structure of the Relevant Market

74. If we consider the larger market, motor vehicle insurance, there are eight providers in this market. Table 1 illustrates the market share based on premium income and on number of policy holders.

Table 1 Allocation of Market share

Insurers	Market Share (in %) based on[1]	
	Policy holders	Premium
Advantage General	36.8	31.1
ICWI	21.3	18.8
JIIC (now GK Insurance)	13.0	15.1
BCIC	8.0	9.6

JN Insurance	7.6	9.1
General Accident	5.2	6.7
Guardian	4.0	7.7
Key Insurance	3.9	2.1
Total	**99.8**[2]	**100.2**[3]

Source: Insurance companies
Notes: (1) 2013 data
(2 & 3) Rounding errors

75. We note that market share rankings remain the same irrespective of the measure used except for the case of General Accident and Guardian. General Accident's share of the market based on premium is ranked lower than Guardian's while its market share based on policy holders is ranked higher than Guardian. For the two largest firms, their market share based on policy holders is greater than their respective market share based on premiums. For the other firms (except Key Insurance), the share by policy holders is less than the share by premiums. This could indicate that larger firms charge lower premiums. Furthermore, this is consistent with actuarial models that indicate that the larger the pool of policy holders the more accurate are predictions about future cost.[38] Thus, larger firms face a smaller risk relative to smaller firms and this is reflected in their premiums.

76. Most jurisdictions, without more, consider a market share below 40% to signify a lack of market power. By this standard, Advantage General with the largest market share would not be a dominant firm. The three largest firms accounts for 71% (65%) of the market share based on number of policy holders (premiums) while the other five firms accounts for 29% (35%) based on policy holders (premiums).

77. Based on interviews held with stakeholders, the Staff found that for certain sub-markets, some insurers possess market share above the required 40%. For example, according to stakeholders interviewed, Guardian General is the only known provider of insurance for tanker drivers. Another sub-market where competition may be limited is the pool of young male adults. Advantage General claims that only it and British Caribbean Insurance Company provides insurance to this group.

78. Motor vehicle insurance for public passenger vehicle (PPV) seems to have been the most risky sub-market in Jamaica to the extent that only AGI insurer offered the service voluntarily in the

[38] Critical Issues in Health Reform: Risk Pooling . 2009.

1990’s. Back then the Jamaica Claims Bureau managed the pool of PPV drivers’ motor insurance on behalf of the other general insurers who contributed to the pool. Customers would go to the Bureau to get a quote and then return to their insurers who wrote the policies; however, these policies were managed by the Bureau. On the other hand, AGI manages and underwrite its own PPV motor insurance. PPV drivers prefer to take insurance from AGI than the Claims Bureau because it was a one-stop shop. It was very difficult and time consuming for clients to expedite business/claims with the Bureau.

79. Eventually, the pool fell apart due to increased claims without the necessary pooling with other types of risks. When the Jamaica Claims Bureau failed, some contributors started managing their policies while other exited that section of the market. That left AGI with the largest pool of PPV insurance.

80. Even though there are other providers of PPV insurance, they issue policies to a restricted group. AGI has the least restrictions on the categories of taxi or bus drivers it issues motor vehicle insurance. For example, Key Insurance offers services to only taxi drivers in this category. BCIC is the newest in the market and it offers to taxis and a fixed number of buses but under very strict terms. JNGI offers services only to JUTA buses and is very selective in its offerings. ICWI offers insurance only to some type of taxis, JUTA buses and other selected buses.

90. Individuals above 70 years have difficulties acquiring motor vehicle insurance. Except for AGI and BCIC, insurers refuse to issue a new policy to someone above 70 years. Thus, there are only two insurers that issue insurance to new customers above this age. At least three insurers offer insurance for motor cyclists.

91. The Staff note that all insurers offer private and commercial motor vehicle insurance. While there are eight market participants with less than 40% market share of customers, participants may possess market power when defined by market share in the different categories of available insurance.

G. Effective Entry

A. Analysis Framework

92. Competition authorities routinely assess whether and the extent to which the leader in a specific market is likely to face competitive constraints from potential market participants. It is

typical for such assessment to rely on conditions of entry, expansion and exit. Participants in markets with negligible impediments to entry, expansion and exit, are unlikely to exercise market power, even if the market is highly concentrated.

93. To be effective in mitigating if not averting anticompetitive conduct, entry must be likely, timely and sufficient. To be likely, there must be an expectation that entry is profitable; to be timely entry must take place within two years; and to be sufficient, incumbent providers should not have exclusive control over critical inputs and the entrant should have the capacity to accommodate consumers who may seek to avoid the high prices associated with anticompetitive conduct on the part of incumbent providers. (*US Horizontal Merger Guidelines)*

94. Our conclusion is that conditions of (i) entry, (ii) exit and (iii) expansion is conditional on the sub-market in which these activities are to take place.

B. New Entry into the Relevant Market

I. History of Entry

95. To enter the relevant market, prospective entrants must meet certain requirements set out by the Financial Service Commission (FSC). We mentioned previously that the initial step for entry is becoming a registered company under the Companies Act then meeting the requirements set out under the Insurance Act. If potential entrants are successful, then they are granted a certificate of registration by the FSC. Obtaining the necessary critical input forms part of fulfilling the registration requirements; the most significant of which is the large capital requirement that must be met by potential entrants.

96. Thus, the most significant barrier to entry is accessing capital funding which can be obtained from lending institutions providing the potential entrant is able to meet the necessary obligations. We note that general insurers do not participate in the loan market and thus a potential entrant would not have to rely on an incumbent for a critical input. However, some general insurers are subsidiaries of such institutions or form part of a group that includes such an institution. Nevertheless, other lending institutions do exist that is not affiliated with a general insurance company.

97. A review of the history of entry in the relevant market is useful in assessing the conditions of future entry.

98. In 2003, there were fourteen registered general insurers whose number has reduced to ten by 2013. As at 2014 only nine general insurers participate actively in the general insurance market. A series of rebranding, mergers and acquisitions over the period contributed to this decrease with new entry occurring in the form of ownership changes. Furthermore, of the nine active general insurance companies only eight offer motor vehicle insurance with premiums from motor vehicle insurance making up the bulk of their underwriting income. These companies are Advantage General Insurance Company Ltd (AGIC), British Caribbean Insurance Company Ltd (BCIC), General Accident Insurance Jamaica Company Ltd (GAIC), Guardian General Insurance Jamaica Ltd (GGI), Jamaica International Insurance Company Ltd (JIIC), JN General Insurance Company Ltd (JNGI), Key Insurance Company Ltd (Key) and The Insurance Company of the West Indies Ltd (ICWI).

99. Advantage General was formerly branded United General Insurance Company Ltd when AIC (Barbados) Ltd acquired it in 2006. It was later taken over by NCB Capital Markets Ltd which forms part of the NCB Group in 2013. Thus NCB was a new entrant by way of acquiring an incumbent firm.

100. GGI was formed through a series of mergers with other general insurance companies. In 2003, Globe Insurance Company of the West Indies Ltd merged with Jamaica General Insurance Company Ltd and kept the former’s name. Later in 2012, Globe merged with West Indies Alliance Insurance Company Ltd which is a subsidiary of the Guardian Group. The merged company operated under the name Guardian General Insurance Jamaica Ltd. The other merger that took placed over the period is the acquisition of Victoria Mutual Insurance Company by BCIC. These mergers and acquisitions led to a reduction from five companies to two decreasing the number of players in the market.

101. Dyoll Insurance Company was liquidated in 2007 when it faced a high number of reported claims in both 2004 and 2007 subsequent to the passage of hurricanes; the company was unable to cover its claims in both instances. In 2004 it was offered a bail-out but failed to receive one in the latter year. During the liquidation process JIIC acquired some of its portfolios.

JNGI, formerly called NEM Insurance Company (Jamaica) Ltd, was acquired by the JN Group prior to the study period and was subsequently rebranded during the study period. General Accident, Key Insurance and ICWI are the only three providers of motor vehicle insurance that were unaffected by mergers and acquisitions over the study period.

II. Timeliness of Entry

102. A timely effective entry would be more likely to mitigate if not reverse any adverse competition effects that may arise, relative to a market when entry is prolonged. A review of the history of entry may inform our assessment of the prospects for timely entry in the future, subject to there being no technical or other changes which would alter the speed of new entry, relative to the speed of past entry.

103. The Staff notes that the period of study indicates that the number of players in the market has been reduced with little evidence that entry will occur in the near future. Furthermore, except for Key Insurance, insurers started out as subsidiaries/branches of overseas insurers. Base on FSC's registration requirements, if an overseas company wants to enter the Jamaican market then it must be operating for at least five years in its country of origin. It also appears that a local potential entrant has to be operating an incorporated business for at least three years prior to being registered.[39]

104. Since the requirements for entry has remain the same over the study period and appears to continue at least into the near future, we conclude that new entry is likely to remain untimely.

III. Likelihood and Sufficiency of Entry

105. The likelihood and sufficiency of effective entry are reduced by factors including (i) demand conditions for motor vehicle insurance services; (ii) small pools and risky customer profiles; and (iii) restrictive regulatory environment.

Demand Conditions

106. Each motor vehicle operated on the roads is required to be insured. Consequently, the demand for motor vehicle insurance is driven by vehicle ownership and consumers appetite to abide by the law.

[39] http://www.fscjamaica.org/registration/content-1173.html; Application – Insurance Companies; last accessed June 16, 2015

107. During our interviews with various stakeholders, the Staff found that there are approximately 400,000 registered motor vehicles; however, only 300,000 are insured. Additionally, the data we have reviewed indicates that between 2008 and 2013 the number of insured vehicles falls within the range 265,000 to 277,000. This indicates that the size of the market has remained relatively stable and a new entrant will likely be forced to offer lower prices or better quality than incumbents to gain market share from either existing policy holders or uninsured drivers.

108. Offering lower prices may leave the new entrant exposed. If premiums are too low then an insurer may be unable to cover claims especially if there should be a rare calamity that causes a spike in claims. Furthermore, new entry could cause an increase in premiums if the resulting pool size for each insurer is sufficiently reduced.

Size of Risk Pools and Risk Profiles

109. Firms' entry in the insurance market is dependent on the number of customers they can acquire. Additionally, the risk profiles of customers may be a factor. For instance, a risky driver may be costly for an insurer in terms of claim costs. The larger and more risk diverse the pool is, the lower the premium the insurer can charge. Thus, if a new entrant is unable to acquire the necessary pool size with the correct combination of risk profiles, it will be unable to set premiums at competitive level.

110. Based on the history of the market, we note that firms enter by way of acquisition. This could indicate that potential entrants are of the view that they are unable to attract a sizable pool by winning over the customers of potential rival firms or from the owners of uninsured registered motor vehicles.

Restrictive Regulatory Environment

111. A restrictive regulatory environment can dampen effective entry. Due to the financial crisis in the mid 1990's, regulation has tightened in the broader financial sector as a safeguard against future collapse. Tighter regulation has come in the form of increased oversight, increased capital requirement, greater business scrutiny.

112. With the enactment of the Financial Services Commission Act, incumbents were given the opportunity to meet the higher standards for solvency and risk management over time. New entrants, on the other hand, have to meet these standards at the get go; thus, entry is relatively more difficult for potential entrants than incumbents.

113. In this section, we conclude that entry is unlikely and insufficient due to the nature of insurance. That is, profitability of entry is hinged on a large customer base and the demand has remained constant for the latter part of the review period. Furthermore, there has been no new entry except for acquisition since the tightened regulation.

114. Our overall conclusion in this section is that entry is unlikely to be effective in mitigating any adverse effects that may arise in the motor vehicle insurance market.

H. ECONOMIC ASSESSMENT

115. The competitiveness of an industry is affected by the number and size of firms, the ease of entry, the nature of doing business and the level of regulation within the industry.

A. Industry Concentration

116. IO Economists uses the allocation of shares, among other things, as an indicator of the level of competitiveness within a market.[40] The allocation of shares is normally captured in a single index called a concentration index. Examples of concentration indices are the *m-firm concentration ratio*, the *Herfindahl-Hirschmann index (HHI)* and the *entropy index*. In our study, however, we will focus on the *m-firm concentration ratio* and the *HHI.*

117. The motor vehicle insurance industry comprises eight companies that also offer other classes of insurance; however, motor insurance makes up a significant portion of their total portfolio. Under EC competition law, above 40% market share is a common threshold use to filter companies that may possess market power.[41] In our study, we note that no insurer has market share in the motor vehicle industry that surpasses this threshold measure.

---

[40] Tirole, Jean. 1988. The Theory of Industrial Organization

[41] http://www.lse.ac.uk/collections/law/staff%20publications%20full%20text/monti/ECJdominancepaper.pdf, last accessed June 18, 2015.

118. We use each company's number of policy holders to measure market share. Number of policy holders is a better measure of market share since premium earnings is dependent on the size of each entity's customer base. That is, a company with a large customer base is likely to have a lower average premium earning relative to an entity with a smaller customer base. This result from the nature of the insurance market; the larger the customer base, the lower a firm can charge each customer. Thus, premium earning would not be a good indicator for an insurer's competitiveness.

119. **Table 2** below shows the sum of the market shares for the three largest general insurers over the period 2008 - 2013. From 2008 to 2010 the three largest firms were Advantage General, ICWI and JN General Insurance. Since 2011, JIIC replaced JN General Insurance as one of the three largest insurers.

Table 2: 3-Firm Concentration Ratio

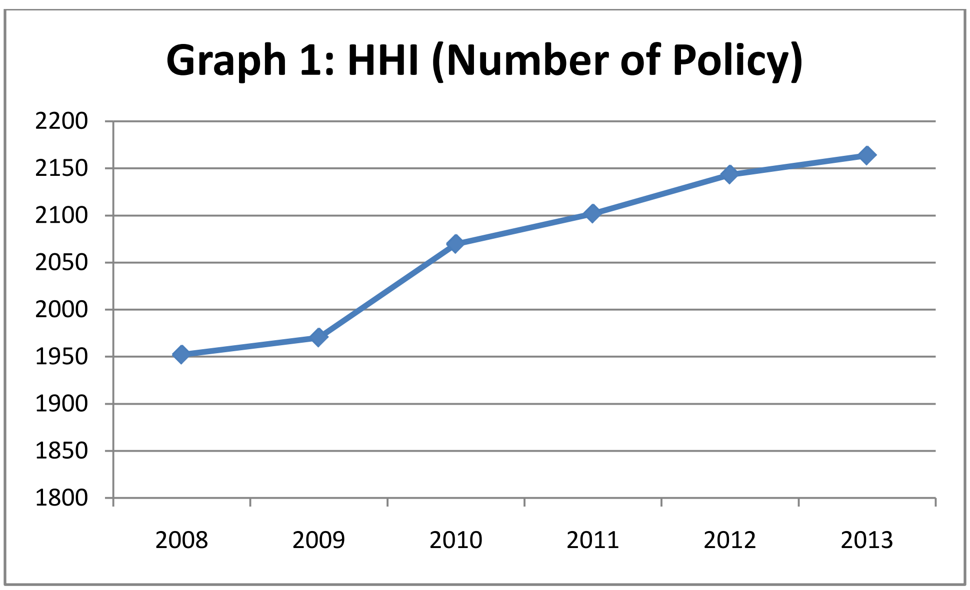
Year	Sum of 3 Largest Firms' Market Share
2008	66.5
2009	68.1
2010	66.8
2011	69.6
2012	70.9
2013	71.2

120. A 3-firm concentration ratio of 70% may indicate that the market for motor vehicle insurance may be uncompetitive. The Staff noted that there has been an increase in this ratio which would imply that the market has become less competitive over the period. Advantage General and ICWI remain the two largest entities in the market and both grew in share size even though they did not undergo any mergers/acquisitions with any other general insurer. It was the smaller firms, however, that merged with other general insurance entities but still did not grew significantly in market share or has its market share decreased. We now assess the concentration level using the HHI which considers all entities within the industry.

121. According to the *US Horizontal Merger Guideline*, a market with an HHI index below 1500 is considered unconcentrated, an HHI between 1500 and 2500 is considered moderately concentrated, and above 2500 is highly concentrated. An unconcentrated market is deemed

competitive while the concentrated market has at least one participant with market power. The HHI is calculated as the sum of the squares of the market share.

122. Over the period 2008 and 2013, the HHI index increased from 1,952 to 2,164 (see **Graph 1** below). This resulted from a growth in market shares for some company while others underwent a decline. Furthermore, some firms acquire greater shares through mergers and acquisition. For example, JIIC acquired the portfolio of the failed Dyoll and overtook JN General Insurance as the third largest company while JNGI market share fell to the fifth largest firm. On the other hand, AGI grew from a market share of 34% to 37% without undergoing any mergers with another general insurer. These figures indicated that the insurance market has been moderately concentrated which implies a moderately competitive motor vehicle insurance market. The change of 212 points, however, would raise significant competition concerns in the US if it occurred through mergers and acquisition. This change in points was largely contributed by the growth in shares for the two largest insurers instead of by way of mergers.



123. We conclude that based on both measures of concentration, the motor vehicle insurance market is moderately competitive. These indices, however, fail to shed light on how firms compete to gain market share and the fact that these firms engage in product differentiation to remain viable. We will look at these aspects of the market in the upcoming sections.

B. Ease of Entry

124. When considering the competitiveness of a market, the Staff focuses on current participants and potential entrants. Thus, entry conditions can signal the competitiveness of a market. When impediments to entry are low, incumbents are unlikely to participate in anti-competitive conduct since super-normal profits will attract entry, which would counteract the adverse competitive effect.

125. In Section G, we established that for this market, entry is unlikely to be timely and sufficient to deter any anti-competitive effects. History has shown that the market is susceptible to total collapse either through financial shocks or natural disasters. Thus the regulatory body has deemed it necessary to ensure entities are financially stable and possesses high quality human resource. These requirements have significantly impact entry to the extent that the number of players in the market has declined. It must be noted, however, that the industry has remain healthy and any firm failure is due to exposure to natural disaster in other jurisdiction as in the case of Dyoll.

C. Nature of Doing Business

126. To remain viable in the insurance industry each entity must acquire a sizable pool of customers for each class of insurance it offers. The insurer is better able to predict its claim payment for each period and thus better able to calculate premiums. An entity that is unable to predict its future claims is highly vulnerable to failure. Thus a sizable pool is integral to the viable operation of an insurance entity. This could be the likely reason why for some insurance classes, which has only a small group of available customers, only few insurers offer in that business class. For example, the group of tanker drivers is very small and based on information the Staff reviewed, only Guardian General offers insurance to tanker drivers.

127. Furthermore, the average claim decreases as the pool of customers increases. Thus a firm with a larger customer base can charge lower premiums making it more competitive relative to its rivals. We note that Advantage General grew its customer share by opting to be the first private company to compete against the publicly ran portfolio of taxi drivers. Advantage General was able to provide a superior quality relative to the publicly ran pool which eventually collapsed. Consequently, Advantage General was in a position to acquire those new customers. AGI's large customer base makes it possible for it to compete on premiums even though it offers

insurance to high risk individuals. Eventually, AGI's profitability in this class attracts other insurers to enter this sub-market but they do so selectively. That is, while AGI offer to a wide range of customers, new entrants vie for PPV customers with lower risks. For example, BCIC offers to taxis and a restricted number of buses; JNGI offers to leisure tours bus drivers; and ICWI offers to some types of taxis and leisure tour buses.

128. The demand for motor vehicle insurance has remained relatively stable over the review period; thus firms have to compete from a fixed group of customers while at the same time maintaining a sizable pool. We have seen evidence that firms try to achieve a sizable pool by merging with other firms to increase the size of their portfolio. Thus, for firms to compete effectively, they have to merge to be stronger.

129. Specialising in certain business classes to obtain the largest possible pool for that business class, is another means by which firms compete. For instance, in 2014, BCIC has started targeting the elderly; a group that has difficulties obtaining insurance or switching insurer.

130. According to stakeholders in the industry, most insurers are part of large conglomerates; this helps to reduce cost overall for the various groups. Only Key Insurance remains independent.

131. The general insurance industry has other market players that provide insurance to consumers as well. These players comprise brokers, sales agents and account executives. They enhance the level of competition in the market by providing easier access to consumers, inform consumers of the choices available to them and/or act on behalf of consumers.

132. A broker is like a middle man between insurers and consumers; it makes available to its customers the offerings of all insurers. In serving its client, it compares all insurers offering and selects a policy that best suits its clients. A broker that was interviewed stated that brokers are incentivised to act on behalf of their customers and not the insurers since acting otherwise may lead to loss of customers to rival brokers and other insurance providers. Furthermore, there is regulatory oversight to prevent brokers from favouring any one insurer. The broker serves two roles; (i) it forces insurers to offer the best products and prices so as to be the selected insurer, and (i) it reduces search time for consumers who are looking for the best possible deal.

133. Sale agents can be viewed as another branch of an insurer, increasing the insurer's reach. Thus, they act on behalf of their respective insurer. Account executives are middle men between brokers and consumers; thus, they act on behalf of consumers.

134. Based on firms' behaviour, it appears firms assess the characteristics of the market and act accordingly to gain some competitive edge over its rivals. Firms merged to get stronger and/or lower operating costs. Firms also try to capture an entire business class as a means of specialising which lowers cost through scale efficiency. Finally, the use of brokers and other agents create an environment for competitive behaviour.

135. We have established that the increase in regulation has likely increased entry barriers although it appears it has stymied the rate of failures in the market. Market failure hurts both consumers and market participants. Thus the increased regulation may have benefitted consumers. Furthermore, under the FSC's mandate, it monitors the level of competition in the market by way of reviewing and giving approval to mergers and acquisitions. We have observed that the mergers approved were those where a general insurer merged with other types of financial company or cases where small general insurer merged with another small insurer.

I. CONCLUSION

136. In our assessment of Jamaica's market, we recognize that the market is susceptible to collapse because of the risk involve and that achieving scale efficiency is integral to firms' viability. Despite the reduction in market participants and the seemingly high regulatory and financial barriers, the market appears to be more competitive. Consolidation in the industry is geared towards strengthening firms to better compete and specialisation reduces costs which help firms to compete as well.

APPENDIX

Review of Motor Insurance in other Jurisdictions

Europe

36. Since 2010, several European countries have examined the level of competition in their motor insurance industry. The impetus behind these examinations stems from paradoxical significant increases in premiums within seemingly competitive markets.[42] For instance, the UK motor insurance market is characterised by multiple-firms, low barriers to entry, and low switching cost. These characteristics signal a competitive market; however, between 2009 and 2010, premium rose by 12%.[43] Such an increase draws suspicion since the factors that supposedly drive premium up were increasing at a much slower rate or even declining. The number of claims decline by twenty five per cent over 2007 to 2012; the price of new cars increase at a much slower rate than premium; the price for used motor vehicles fell; and inflation also increased at a slower rate.

37. The Italian market had similar experiences regarding rising premiums despite a multiple suppliers market. Additionally, the Italian Competition Agency observed other challenges not observed in the UK market. For instance, premium offered by firms differed by up to 30%. This is likely due to customers' inability to shop around before selecting their insurer and/or switching costs are high. In this market, as the number of claims increases, more firms refuse to offer policies to high risk individuals. [44]

38. Both the Italian and UK markets have seen a decrease in the variety of insurance policy being offered. In the UK, premiums for third party coverage keep increasing to the extent that many policy holders switched to comprehensive coverage since the gap in premium between the two types of policies was getting smaller. Consequently, the demand for third party coverage tapered off. Additionally, insurance firms have been exiting the market because of high pay outs without the offsetting premium payments.

---

[42] http://www.economist.com/news/britain/21588079-bizarre-microeconomics-british-car-insurance-wacky-race; last accessed on November 18, 2013

[43] http://www.theguardian.com/money/2012/sep/28/car-insurance-industry-competition-commission; last accessed on November 18, 2013

[44] http://www.nortonrosefulbright.com/knowledge/publications/75811/the-italian-competition-authoritys-sector-inquiry-concerning-the-direct-compensation-procedure-and-the-competitive-structure-of-the-motor-vehicle-liability-insurance-sector-in-italy-ic42; last accessed November 19, 2013

39. Preliminary investigation by the Office of Fair Trading (OFT) indicates that insurance firms do not compete on price or quality; but instead they try to increase their rivals' costs. When a policyholder suffers from injuries or his vehicle is damaged in an accident caused by another insurer's policyholder, the injured driver's insurer will make a claim on the "at fault" driver's insurance firm. The "not at fault" insurer, however, is responsible for getting its customer as close as possible to the position the customer was in prior to the accident. The "at fault" insurer will be required to reimburse the cost. Both insurers are rivals and hence the "not at fault" firm is incentivised to make the cost of the claim as large as is possible; thus, ultimately increasing the costs of claims for rival companies. If a significant number of firms engage in this conduct then there is a likelihood that industry premiums will increase.

40. Insurers have recognised that the problem of increasing premiums stems from the "at fault" insurer having no control over the cost of the claim. Thus, claim costs are not handled efficiently leading to higher prices to consumers. Insurers are of the view that the steps necessary to combat these inefficiencies is to tie control and liability together but this action may have implications for antitrust policies since the action could facilitate collusion.

Canada

41. Despite market forces failing to bring about an efficient allocation of insurance services, the Insurance Bureau of Canada believes that there is enough evidence to indicate that the market does better when the services are not offered by a state run monopoly. The Bureau identifies the following weaknesses in state run insurance industry:
    - Loss of public income from private insurance entities
    - Increased government spending by subsidization
    - Reduced private investments
    - Limited choices
    - Little product innovation
    - Volatile prices
42. The article pointed out that liberalisation of markets normally leads to increased consumer welfare, prices that reflect true costs, increased employment and investments.[45]

[45] http://www.ibc.ca/en/Car_Insurance/Introduction/Reality_Govt_run_auto.asp; last accessed on November 30, 2013.

United States of America

43. Countries like the United States of America (USA), Czech Republic and Hungary have seen downward trend in premiums and have claimed strong competition is partly responsible for this trend.[46] It is a widely held view in the field of insurance regulation that moving away from government price controls to market competition benefits consumers of insurance products.[47] In particular, the US motor insurance market experienced a 4.2 percent increase in premium between 2002 and 2012 while the consumer price index, a measure of inflation, increased by 27.6 percent over the same period.[48]

44. Despite these observed benefits in the USA, there are still proponents of government price controls in the provision of insurance. This group uses the state-specific case of California to demonstrate that price regulation is more beneficial to consumers than market-based approach.

45. In the USA, motor vehicle insurance is regulated at the state level. Currently, the state of California has the highest level of regulation due to the passage of the California Referendum Proposition 103 in 1988, which came into full effect in 1995. The proposition seeks to implement the following objectives: the rolling back of premiums which effectively caused a five year freeze on insurance premiums, approval of rates, establishing a rate setting formula, implementing good driver discounts, installing an elected insurance commissioner, subjecting the insurance industry to competition laws, allowing insurers to cancel policies, permitting broker to accept discounted commissions to offer rebates, allowing groups to negotiate rate reduction, and establishing a comparison shopping data website.

46. Most analysts are of the view that the proposition did not lower premiums in California but it was the dramatic lowering of costs in that state. In the 1980's, the insurance environment in California was conducive to high costs with a high prevalence of fraud, attorney involvement and excessive claiming. These caused premiums to be very high in California relative to other states.

---

[46] OECD. *Global Insurance Market Trend*. 2011. http://www.oecd.org/pensions/insurance/49108065.pdf; last accessed on November 25, 2013

[47] Dr. David Appel. (2004). *Revisiting the Lingering Myths about Proposition 103: A Follow-Up Report.* Milliman, Inc

[48] *Claims Journal: Competition in the U.S. Auto Insurance Market Benefits Drivers*. http://www.claimsjournal.com/news/national/2013/07/23/233407.htm; last accessed November 22, 2013

47. The drop in premiums observed in the 1990's was due to the drop in loss costs. This was brought about by the aggressive approach undertaken by insurers and state-local law enforcement. For instance, it was shown that barring drunk drivers and uninsured drivers from compensation for non-economic losses resulting from auto-crash injuries led to a 10% decline in compensation costs which translated into a 5% lowering of premiums.

48. Base on the experiences of the different regions, we note that the insurance industry tend to be healthier when premiums are market based while costs are regulated.