Report of Committee on Payouts to Automotive Dealers

May 31, 2016 - Hyderabad

भारतीय बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA
Promoting insurance. Protecting insured.
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Shri T.S. Vijayan
Chairman
IRDAI
Hyderabad

Respected Sir,

Report of Committee on Payouts to Automotive Dealers

I have immense pleasure in submitting the report of Committee on Payouts to Automotive Dealers vide circular dated IRDA/NL/ORD/CMT/199/11/2015 dated 13th November, 2015.

The report and recommendations contains extensive review on the subject, meeting with various insurers, brokers, agents and motor dealers. The analysis of the report contains the following points:

1. To study the existing practices in the industry on the payouts made to the motor dealers on motor insurance business

2. To align with the Insurance Act, regulations, guidelines on the provisions for expenses of management, outsourcing etc.

3. To bring transparency and uniformity in such activities

4. Issues faced by various stake holders

5. Agreements between various insurers and dealers, payments, claim process, underwriting, their internal controls etc.

6. Issues faced by various stakeholders (i.e. Dealers, Manufacturers, intermediaries etc.) and their suggestions to the effect

7. Customers expectations from the dealers

8. Recommendations

On behalf of the Members of the Committee, and on my behalf, I sincerely thank you for entrusting this responsibility to us. I thank the Authority for giving us the opportunity and support in framing this report.

- Sd/-
Suresh Mathur
Chairman of the Committee

Place: Hyderabad
Date: 31.05.2016

Acknowledgements

At the outset, the Committee expresses its gratitude to the Chairman, IRDAI for providing the opportunity to work on the report on Automotive Motor Dealers Payouts and suggest recommendations.

The Committee would like to thank the General Insurance Companies and GI Council for sharing their valuable inputs and suggestions. The suggestions provided a collective industry view and were extremely useful in striking a balanced approach.

The Committee would like to thank the Brokers and Brokers Association for sharing their valuable inputs and suggestions in preparing this report. The Committee would like to thank the Motor Manufacturers and Motor Dealers for sharing their valuable inputs and suggestions.

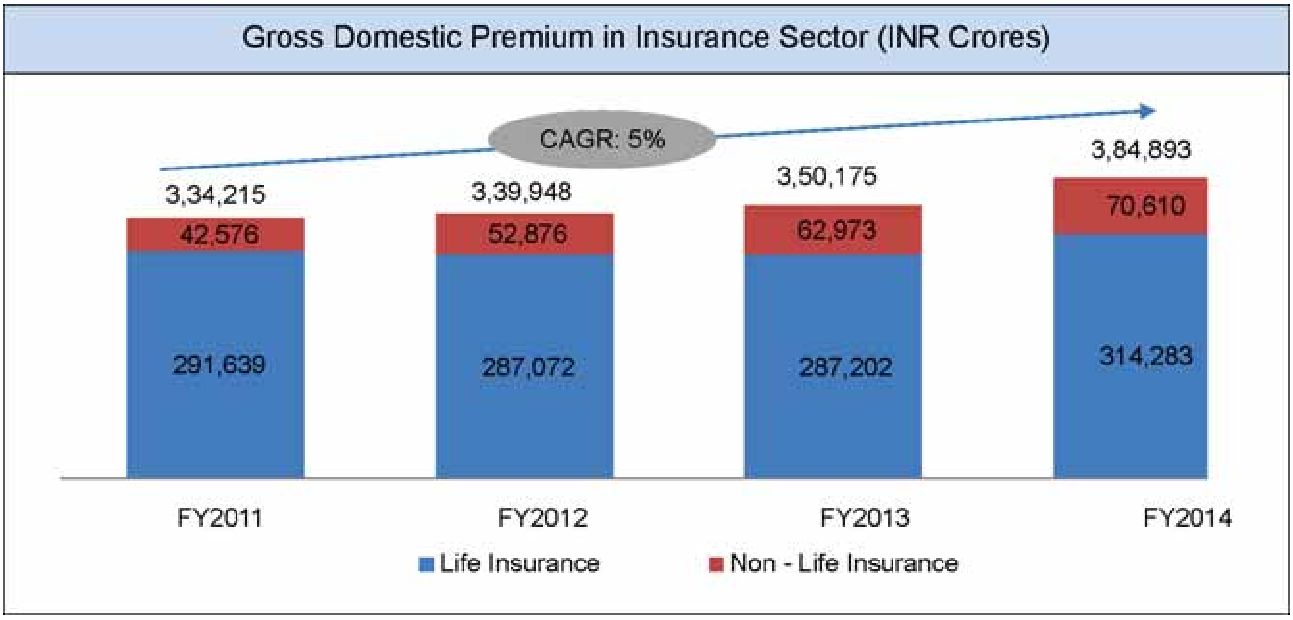
The Committee would like to thank the Agents & Policyholders representatives for sharing their views on the subject.

The Committee would like to place on record its gratitude to IRDAI, New India Assurance Co and ICICI Lombard General Insurance Co for providing the space and venue in facilitating the discussions. The Committee would also like to recognize the assistance provided by Ms. Jamuna Choudhary, Assistant Director and Mr. Ameer Hassan, Junior Officer in structuring the report.

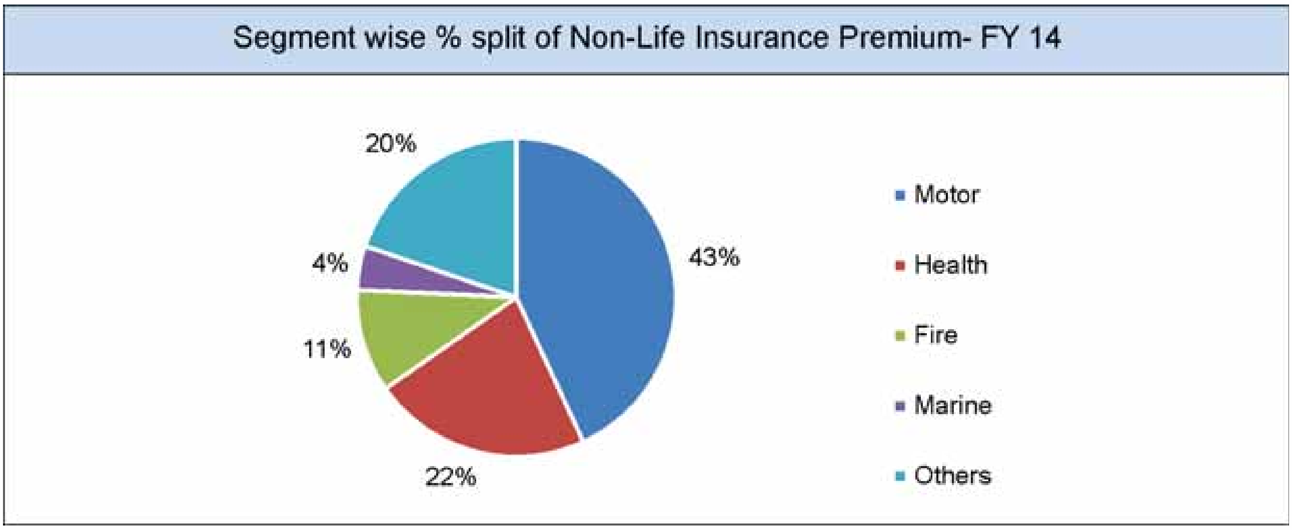
Contents

1. INTRODUCTION

In the wake of the formation of IRDAI, the development of General Insurance business in India has been spectacular. In terms of cumulative premium, the Industry has transformed from 12,384 Crore in 2001-02 to about 96,500 crore (approx) in the year 2016. A look at the following chart representing the movement of the Gross domestic premium demonstrates that the General Insurance market has almost doubled every 5 years with the nascent trend showing a slight slowdown. The important social underpinnings of this explosive growth in General Insurance industry has been the impact of the structural economic reforms in India, which released pent up social demand for General Insurance product coupled with major interventions by IRDAI in General Insurance market for increasing penetration, among hosts of other factors. Besides, the growth in the insurance sector may also be attributed to the various initiatives taken by the IRDAI to drive distribution of insurance products for the masses in rural and semi-urban areas. This includes introduction of new and innovative channels such as Bancassurance, Web aggregator, Common service Centre and Insurance Marketing Firm besides the conventional distribution channels i.e Brokers and Agents.



Amongst the product segments in Non-Life Insurance, Motor Insurance has been a primary driver of the growth. The Motor Insurance premium in India forms the biggest share of the General Insurance business. It forms around 43% of the total General Insurance premium in India.



Consequent to the economic reforms, the vehicular population on Indian roads has grown dramatically. A recent publication of the Ministry of Road Transport indicates the year on year (YoY) registration of Motor Vehicles in India starting from 1951.

Total Number of Registered Motor Vehicles in India (1951, 1956 and 1959 to 2013)

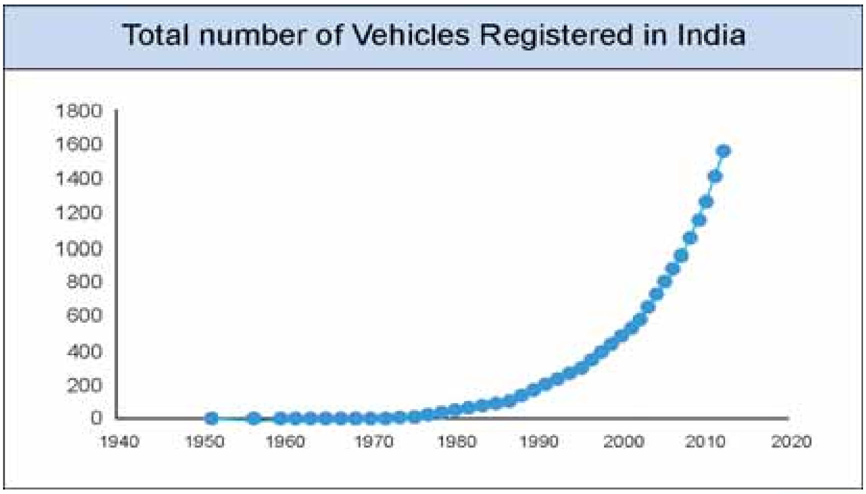
(In ' 000)

Year (As on 31st March)	Two Wheelers	LMVs	HMVs
1951	27	159	120
1956	41	203	182
1959	67	267	228
1960	76	282	247
1961	88	310	267
1962	116	340	293
1963	140	375	332
1964	168	388	350
1965	202	428	376
1966	226	456	417
1967	286	482	423
1968	347	522	463
1969	417	574	483
1970	503	628	527
1971	576	682	607
1972	656	740	649
1973	734	709	666
1974	838	768	721
1975	946	766	760
1976	1057	779	864
1977	1415	878	967
1978	1618	919	1077
1979	1888	996	1175
1980	2117	1059	1345

1981	2618	1160	1613
1982	3065	1243	1747
1983	3654	1385	1934
1984	4351	1455	2143
1985	5179	1607	2384
1986	6245	1780	2552
1987	7739	2007	2872
1988	9300	2295	3223
1989	10965	2486	3469
1990	12611	2694	3847
1991	14200	2954	4220
1992	15661	3205	4641
1993	17060	3344	4942
1994	18899	3569	5192
1995	20831	3841	5623
1996	23252	4204	6330
1997	25729	4672	6931
1998	28642	5138	7588
1999	31328	5556	7991
2000	34118	6143	8596
2001	38556	7058	9377
2002	41581	7613	9730
2003	47519	8599	10889
2004	51922	9451	11345
2005	58799	10320	12380
2006	64743	11526	13349
2007	69129	12649	14929
2008	75336	13950	16067
2009	82402	15313	17237
2010	91598	17109	19039
2011	101865	19231	20770
2012	115419	21568	22504

Source: Ministry of Shipping, Road Transport & Highways, Govt. of India. (ON285)

A closer look at the above table would reveal the exponentiality in the growth of Motor vehicles in India from the year 1990.



Unfortunately, the vehicular density on Indian roads and insurance density of those vehicles are highly disproportionate. In order to exemplify the postulation, let's assume the following:

1) The initial registration period of vehicles under Indian Motor vehicle rules being 15 years, it may be assumed that the density of vehicles on any given year is the accumulation of vehicles registered during the previous 15 years.

2) There is an elementary proportion of registered vehicles that renew registration post completion of their initial 15 years registration period.

3) There is an elementary proportion of registered vehicles that get off the road because of accidental damages beyond repairability.

4) If the assumption made at point number 2 above is set off against point number 3, point number 1 stands validated, i.e.: the vehicular density on Indian roads = accumulation of the registered vehicles of previous 15 years.

Given the assumption, the cumulative vehicular density on the roads for any given year could be derived as under.

Figures in Lacs.

Years under consideration	Vehicular Density (Accumulation of registered vehicles of the previous 15 years)
2000	2476.41
2001	2765.80
2002	3088.91
2003	3427.33
2004	3809.52
2005	4219.09
2006	4680.97
2007	5186.40
2008	5721.08
2009	6303.84
2010	6938.87
2011	7646.54
2012	8432.67

Interestingly, significant mismatch could be observed upon comparing the above vehicular density with the number of vehicles insured for comparative years emphasizing the requirement to address the under-penetration of motor insurance in the country.

The said under-penetration of Motor Insurance is not only a social concern but also the prime objective of this committee to engage with and find a solution to.

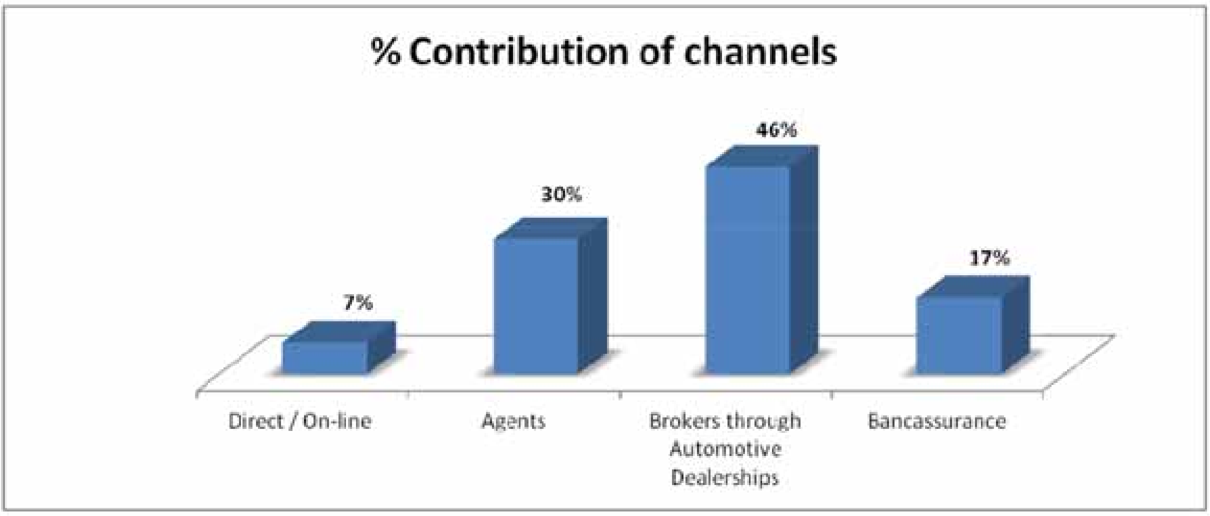
The under-penetration, as the committee considers, has 2 primary attributes:
1) Consumer behavior (Demand)
2) Distribution mechanism (Supply)

While behavioral aspect of the society recognizing the need for Insurance will grow with time, the distribution mechanism is required to be made robust enough, not only to ensure adequate supply, but also to induce the behavior in the right direction.

In order to assess the adequacy of distribution mechanism, it is appropriate to consider the available distribution channels and their potentiality. Presently, Motor insurance is sourced through various distribution channels as under:

- Direct / On-line
- Agents
- Brokers/ Automotive Dealerships
- Bancassurance

Sourcing of business of the above channels over the last five years is represented as follows:



From the above, it is evident that out of the total Motor premium, 46 % is sourced from the Automotive Dealership. This is clearly because of the fact that the Automotive Dealerships are the most important touch points for the customers seeking motor insurance. The figures indicated bellow for business emanating from the Automotive Dealerships are revealing and underscore the importance for the customers as well as the premia for Motor from the dealership points.

It is in this background the Authority has deemed it fit to constitute the committee with the following terms of reference.

भारतीय बीमा विनियामक और विकास प्राधिकरण
INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA

Ref No: IRDA/NL/ORD/CMT/199/11/2015 Date: 13.11.2015

ORDER

Re: Constitution of Committee on Motor Dealer payouts on motor insurance business

The Authority proposes to bring clarity and transparency in payouts made to the auto dealers by the insurers for getting motor insurance business. Therefore, the Authority hereby constitutes a Committee consisting of the following members.

SN	Name	Entity	Position
1	Mr. Suresh Mathur	Sr. JD (NL), IRDAI	Chairman
2	Mr. R K Sharma	JD , F&A, IRDAI	Convenor
3	Mr. Zafir Alam	GM- The New India Assurance Co Ltd	Member
4	Mr. Nitin Khanna	Head -Motor, ICICI Lombard Gen Ins Co Ltd	Member
5	Mr. Vijay Kumar	President Motor, Bajaj Allianz Gen Ins Co Ltd	Member
6	Mr. Surendra Srivastav	Maruti Insurance Brokers pvt Ltd	Member
7	Mr. P S Raghuvanshi	Hyundai Motors- Group Head, Field Service	Member

The terms of reference of the committee may be as below:

1. To study the existing practices in the industry on the payouts (called in different names like infrastructure expenses etc) made to the motor dealers on motor insurance business.
2. To examine the deviations from the existing norms.
3. To align with the Insurance Act, regulations, guidelines on the provisions for expenses of management, outsourcing etc.
4. To bring transparency and uniformity in such activities.
5. To design standard formats for agreements (between insurers and dealers) on outsourcing.
6. Recommendations on draft guidelines.

The Committee may invite representatives from any other related entities to carry pout deliberations. It is advised to submit the report within two months from the date of formation of the committee.

This has approval of the competent Authority.

Suresh Mathur
Sr. Joint Director

2. EXECUTIVE SUMMARY

Motor Insurance is an important segment of the General Insurance business in India as it accounts for over 45% of the overall business of general insurance. In order to meet the requirement of Motor Vehicle Rules, 1988 and as a pre-requisite of registration of any motor vehicle in India, motor Insurance is bought at the time of purchase of every Vehicle. As per the requirements of the Motor Vehicle Act, 1988, any vehicle plying on the roads has to have at least a motor third party insurance policy. In view of the same, it is essential for every motor vehicle to renew the Motor Insurance bought at the time of purchase and registration of the vehicle. As per the contemporary structure and prevalent practices, the entities which are involved to maintain necessary supply and distribution of Motor Insurance are Insurance Company and their Agents, Insurance Brokers, Automotive Dealers and Original Equipment Manufacturers (OEMs).

Since the Automotive Dealers are not authorized to procure Motor insurance business from any prospect, they work along with the Insurance Agents and Brokers, who provide necessary support in terms of knowledge and information at the Dealership Points, besides setting out the price. The Insurance Companies make payment to the Automotive Dealers for infrastructure support that they receive from the Dealers for marketing and distribution of their products. However, the current outsourcing guidelines of the Authority are said to have inadequate provisions to account for all such expenses.

The Committee felt that, in the absence of any oversight on the Dealers' Insurance operations at present, many of them tend to engage in practices like mis-selling and misrepresentation of Insurance products and the underlying covers, not providing adequate service as required under the policy coverage, not passing on the discounts that is allowed on insurance policies to the customers, etc.

The committee, being cognizant of the ground reality and in consideration of the recommendations and suggestions received from various stakeholders is of the considered view that the committee should recognize and recommend a new regulatory framework in order to synchronise the established practices prevalent in the market and the regulatory prescriptions to the effect. In view of the same and based on the suggestions and observations of various stakeholders followed by necessary deliberations by the members of the committee, following recommendations are submitted to the Authority for its consideration:

1. The following Channels of distribution may be allowed by the Authority to source Motor Insurance:

a. Model 1: Auto Insurance Marketing Firms (AIMF)

Given the fact that the Automotive Dealers are an inseparable constituent of distribution of Motor Insurance in India, it is necessary to accord them with necessary regulatory recognition, enabling them to procure motor insurance business directly from the prospects and provide full fledged distribution services for Motor Insurance in the market. Such recognition, other than facilitating better distribution of Motor Insurance would make them directly accountable for their acts and deeds to the Insurance Regulator vis-a-vis the concerned Insurer. In order to enable IRDAI and the Insurers to have an oversight / regulate the insurance related operations of such Automotive Dealers, they may be registered with the IRDAI consequent to acquisition of necessary qualification as may be prescribed.

For the purpose of according necessary regulatory recognition to the Automotive Dealers, they may be termed and called as “Auto Insurance Marketing Firms (AIMF)” and may be defined as “Any entity engaged in the business of sale/ distribution or service of Motor Vehicles under an express authorization from a Motor Vehicle Manufacturer”. The structure for administration of AIMF may be drawn akin to the structure for administration and governance of Corporate Agents. However, with a view to enable adequate options to the customers, AIMF should have the liberty to work for three insurers at least at the same time. Further, keeping in view the fact that the AIMF’s would largely be distributing standard, tariffed insurance products (out of which most of the products would be Over the Counter products), the formalities required for their registration and continuous administration may be relaxed.

b. Model 2: Procurement of Insurance business through Brokers (Broking Model)

The Insurance Brokers may be authorized to manage the distribution and remain responsible for all the acts of commission and omission of the Automotive Dealers. Under this model, Automotive Dealer may be prohibited from procuring any Motor Insurance business directly from any prospect or derive any remuneration in whatever name called from any insurer or insurance intermediary either by itself or through its nominees or representatives. Further, the Insurers and Insurance intermediaries may be prohibited from giving any fee, remuneration or reimbursement for any other work either in the form of a percentage / proportion relatable to the premium procured or otherwise to such Automotive Dealers.

c. Model 3: Automotive Dealers as POS under Licensed Intermediaries

Motor Insurance is a standard prototype product still governed by Indian Motor Tariff, which does not require extended interactions of the Insurer or its representatives with the customer at the point of sale. A recent Guidelines issued by the Authority accords rights to the Point of Sales Person (POS) to work for and on behalf of insurer/ Brokers/ Corporate agents for standard and commoditized products. In consideration of the above, the Automotive Dealers may be accorded a status of POS with all the formalities of POS complied-with. The POS Guideline contemplates the POS to be a natural person, however in the present structure proposed there could be situations where the Dealership is not a natural person but a legal person.

d. Model 4: Corporate Agent Model:

Under this structure, the Corporate Agent shall remain responsible for all the acts of commission and omission of the Automotive Dealers. Under this model, the Corporate Agent shall depute his specified person for providing the services to the customers. The concerned Insurer or corporate agents shall not be allowed to outsource any activities to automotive dealer and no other payouts in any name or under any head be permitted to the automotive dealers.

2. Restriction on Payouts: No Insurer, agent or any other intermediary should make any payment (either in the form of remuneration, commission or otherwise) for procurement of Motor Insurance business to any Automotive Dealer, unless such Dealer has the regulatory recognition under any of the models as adopted by the IRDAI. However, Insurer or Insurance intermediaries may pay commission in accordance with the guidelines of the Authority to the Automotive Dealers who have opted for POS. Only those Automotive Dealers, who have been accorded recognition under any of the models above as adopted by IRDAI or who have opted for becoming a POS be allowed to procure Motor Insurance business directly from prospects and receive remuneration thereof, as permitted under the law and in accordance with the prescriptions of the IRDA.

3. The quantum of commission/remuneration/compensation to be received by any AIMF or the Dealers under any of the above models as adopted by IRDAI for procurement of Motor Insurance business be decided by the Insurers within the overall limit of Commission / Rewards and Remuneration as specified in the relevant regulations and in accordance with the prescriptions of IRDAI in this regard. However, the Committee, looking to the costs involve in procurement and sourcing of the policies feels that commission for motor segment should be 15 percent and reward may be 20 percent of the commission.

4. The direct and indirect benefits (if any) derived by the Insurers in terms of its 'Expenses of Management' by procurement of Motor Insurance business through the AIMFs or similar recognised entities be passed on to the customer.

5. The recommendations of the Committee (Consequent to its adoption by IRDAI) be put for strict observance and adherence by all stakeholders i.e. the Insurers, Agents, Corporate Agents, Brokers, POS and the AIMFs. Any stakeholder found to be violating the norms and the prescriptions may be subjected to strict penal action by IRDAI, which may extend to disqualifying any Key Management Person of the Stakeholder (found to be involved in the said violation) and not considering him as "fit and proper" to serve the insurance industry for a minimum period of three years. Further the license of the Insurance Intermediaries / AIMF/ Agents is found to be involved in the said violation may be liable for cancellation.

6. Certification: It may be made mandatory for every Insurer procuring Motor Insurance through any one of the models to furnish a yearly certificate of compliance with respect to the prescriptions of IRDAI on governance of payouts made to AIMFs / Insurance Brokers/ POS model duly endorsed by the Chief Executive Officer, Compliance Officer and Chief Financial Officer of the concerned Insurer supported by the necessary Board resolution. Such certificates may be filed with IRDAI along with the periodic returns filed by the Insurers under Section 31B of the Insurance Act, 1938.

7. The Committee has not drafted the model agreement for outsourcing as the Committee is of the view that no activities should be outsourced to motor dealers.

3. METHODOLOGY AND APPROACH

Committee noted that a number of stakeholders such as Insurance companies, Brokers, Agents, Corporate Agents, Automotive Dealers and Automotive Manufacturers, are involved in the sales and servicing of Motor Insurance in the Indian market.

In order to understand the perspective of various stakeholders, the committee decided to meet and deliberate with the following stakeholders:

1) Insurers
2) Brokers
3) Corporate Agents
4) Manufacturers
5) Dealers
6) Agents
7) Policyholders

During the discussion with the various stakeholders, it was observed that the existing structure and prevalent practices has a number anomalies including but not limited to the following:

1. Agreements between the Insurers and Automotive Dealers/ Manufacturers
2. Payments made to Automotive Dealers/ Manufacturers
3. Internal controls of Insurers/Insurance companies
4. Underwriting of Motor risks
5. Claims process
6. Others

A brief elucidation of the above anomalies are as under:

I. Agreements:

1. The agreements between Insurers and Automotive Dealers/Auto Manufacturers are broadly service agreements for providing assistance in sale of products/marketing.

2. As per agreement, the Dealers also render services in respect of settlement of claims (easy and cashless settlement).

3. Some of the agreements between Insurers and Automotive Dealers/Auto manufacturers etc. are for business support services, wherein the remuneration against the services have been agreed to be termed as "infrastructure expenses". Such remunerations are over and above the commissions' payable on the policies sold by the intermediaries.

4. Under the Agreement, some of the Insurers authorize the manufacturer to procure and solicit on exclusive basis Motor Insurance business with respect motor vehicles manufactured by it.

5. As per some of the Agreements, the sharing of costs of advertisements has been undertaken by both the contracting parties such proportion as may be mutually agreed.

6. The Memorandum of Understanding (MoU) entered between the Insurers and the Automotive Dealers are broadly for reimbursement of expenditure incurred on maintaining the front end infrastructure at Dealerships and Manufacturers including provision of computers, necessary space, personnel, equipment, furniture and such other facilities as may be necessary for implementation of the terms of the MoU.

7. Most of the Agreements examined do not include the basis of payments to Automotive Dealers.

8. Some of the Agreements show that Manufacture/Automotive Dealer compels the following concessions.

    a. The Insurers should fix premium rate in mutual consultation with manufacturer

    b. The Insurer as far as possible avoid quoting the premium amount payable in renewal notice as the same would be handled by the Dealer

    c. The refund of premium should be made to the Dealer where the payment towards premium has been received from the Dealer

d. All claims shall be registered at Dealership in the system. the Dealership shall appoint eligible surveyors.

9. Some of the Agreements provide that the Insurer has to provide pre-printed stationery (letterhead + Schedule Kit) at approved Dealerships.

10. Some of the Agreements have been entered into by the Insurers with the Dealerships as independent entities. However, the payment of remuneration/reimbursement has been agreed to be made to the individual representatives / nominees of the Dealerships.

11. Substantial amounts are being paid in the name of signage agreement to auto Dealers for entering into the agreement.

12. To accommodate the payments towards solicitation and procurement of Insurance business, some Insurers enter into agreement with Dealers for support services to facilitate Insurance business.

13. Some Insurers in addition to prescribed rate of commission for Insurance business have paid support service charges / infrastructure expenses to motor manufacturer / Dealers with or without any national level arrangements.

14. Some Agreements contain the information on minimum business committed, mode of sourcing, type of business such as Motor Pvt., Motor-GCV etc. Thus, it is an expression of the intended objective to use the services of third party service providers for soliciting and procuring business without license.

II. Payments:

1. The payments are either as a percentage of premium or on Motor GWP. In some cases, it is 4% of GWP basis to manufacturer. The payments are made to Agent, Dealers, and manufacturers as well.

2. The reimbursement of infrastructure cost as a percentage of Motor OD premium are made both by the private and PSUs Insurers.

3. The commission and payouts (market expenses, incentives to employees of Dealers) to Dealers exceed the maximum allowable commission on OD premium. The Reimbursement of infrastructure expenses, in some cases is over and above paying commission.

4. Some Insurers use the portal of manufacturer and for which Insurer agrees to pay one time upfront payment plus service tax. The Manufacturer also charges monthly subscription fees, to Insurer, on the basis of usage of the portal. The Insurers pay service charges on the premium amount directly to manufacturer.

5. The Payouts with regard to motor business is split as follows.

   a. 10% as commission to Agent (in most cases the agency is taken by Automotive Dealer in the name of their employee/spouse/relative)

b. Up to 40% of premium to Automotive Dealer towards infrastructure expenses

c. Up to 4% of premium to vehicle manufacturer towards facilitation charges."

6. Some PSU Insurers have issued a circular authorizing all of its RO's to allow up to 40% of the motor premium towards procurement expenses.

7. Payouts linked to Incurred claim Ratio were also noticed.

8. Some Insurers are directly booking the motor business of some Dealers without any Agent and paying infrastructure charges, which vary with the premium.

9. In addition to the stipulated rate of commission for Insurance business, some Insurers are paying support service charges / infrastructure expenses to motor manufacturer / Dealers with or without any national level arrangements. Such charges were paid under the accounting head "Technical Service Expenses".

10. Some Insurers are paying consideration (service charges) to manufacturer on the basis of policy issued through Dealerships.

11. In a few cases, the Insurers have recognized these entities as referral partners in system and paying referral fee / commission to them.

12. Some Insurers are not providing pre-printed stationery and instead of it making payment for these stationery charges as per bill raised by the Dealer.

13. It was observed that though Insurance Brokers are raising bill for Brokerage; some Insurers are paying the same under accounting head "Professional Fees" and not under accounting head of "Insurance Commission"

14. Some Insurers, apart from making commission payments to the intermediaries i.e. Broker / Agent if any, were also making payments in the form of "Fees for Professional or Technical Services" to representative of Dealers as a percentage of Gross Direct Premium.

15. Some Insurers are reimbursing expenditure incurred by Automotive Dealers for providing services to Insurer includes Infrastructure facilities, Seminar Expenses, Marketing Expenses, Communication Expenses, Stationery Expenses and Travelling Expenses.

16. The Individuals / entities were raising multiple bills upon Insurers in the same month and for the same services.

17. In order to accommodate the payouts towards sourcing Insurance business Insurer entered into Insurance services agreements with the Automotive Dealers and made the payouts. The payments made to these entities are on the basis Insurance premium sourced only.

18. The bills were raised by one entity but payments were made to some other entity.

19. There was an inconsistency such as raising of bill by one entity, payment of same to other entity.

III. Internal Controls:

1. The internal audit function of some Insurers pointed out lack of underwriting, claims and accounting controls, non-reconciliation of premium collection on a day to day basis, head wise, name wise and Policy number wise as required by Sec. 64VB of Insurance Act, 1938.

2. The payments are being made from the respective regional offices for some Insurers where the entities are located and the same are not available at its H.O.

3. The payment made by some Insurers do not contain any details as to why the amount was paid to vendors. It simply says business ancillary services.

4. Apart from invoice/bill, there are no supporting documents for some Insurers to justify that the charges are for rendering the services indicated therein in the bill.

5. The payments to automobile manufacturers by some Insurers is just for facilitating the arrangements with their Dealers. The payments are agreed as a percentage of premiums procured.

6. Some Insurers have set a maximum ceiling of 50% of IMT rates as permissible expenses, resulted in spiralling costs of the Insurer and is the reason for breaching the provisions of Sec. 40(C) of the Act, read with rule 17(E) of Insurance Rules, 1939.

7. In few cases, the Head Office of some Insurers doesn't have any control to verify whether the respective Regional Office is following the allowed limits or exceeding/modifying the terms. Most of the notes granting additional payouts up to 50 % are based on the recommendations of the Regional Office that is giving the existing ICR and other Insurer's quotation which are not verified at any point of time.

8. Some Insurers do not have adequate and proper systems in place or control on payment procedures.

9. Some Insurers are entering into agreement with Automotive Dealers but parting the payments to nominees / partners / proprietors of Automotive Dealers.

10. No bill was scrutinized / certified by any official of the branch of some Insurer. Without receipt of any scrutiny / confirmation about satisfactory fulfilment of said services the corporate office of the Insurer processed the bills. The Insurers do not have proper system and controls / maker checker procedures in place, for such payments.

11. Some Insurers have distributed gifts and incentives among various Automotive Dealers, co-operative banks, housing finance companies and other companies and Individuals. It was also noticed that there are no details available with the Insurer. Therefore, it signifies that there is lack of internal controls and policy over expenses and distribution of gifts and incentives.

IV. Underwriting:

1. In some cases, the employees of the Dealers would select the Insurer after collecting order form of customer. After completing all the data entry, the system automatically generates the Proposal Form.

2. The proposal forms of some Insurers are not signed by the proposer prior to the issuance of the policy.

3. Some Insurers have accepted third party cheques and also not accounted those premium cheques.

4. In some cases, the Dealers would issue cheques towards premium, revealing that the Dealers are collecting the amount from customers and issuing a consolidated cheque periodically in the name of the Insurer. This was further evident in the huge Agent's balances (which include Dealer's balances) that are shown under 'other assets' of Schedule 12 in Annual Report of some Insurer.

5. In some cases, the Automotive Dealers issue the motor policies on behalf of the insurers and collect the premium. Since the Automotive Dealers are widely spread there is a delay in accounting of premium cheques and instances of risk commencement prior to premium being accounted is quite possible.

6. Some Insurers have issued policies with risk commencing from March for which premium was collected on April and policies with risk commencing on December, the premium was collected on January.

7. Some Insurers have given entire option to the Automotive Dealer whether to give discount or not and also at what rate to the Policyholders.

8. In some cases, some Insurers have provided Portal facility to Automotive Dealers who can directly enter the proposal and print the policy from their location itself.

9. In some cases, the Cover Notes were issued by Automotive Dealers, Insurance Brokers etc., and further noted that there is a difference in premiums mentioned on the cover note and actual receipts.

10. The Automotive Dealers issue Insurance policies on behalf of some Insurer. In respect of the policies issued by the Automotive Dealers, some Insurer does not maintain any supporting papers (proposal, vehicle documents, etc.)

11. AML compliance was not ensured by some Insurer.

12. Some Insurers are providing separate policy wording for customers who have purchased particular manufacturer vehicle.

13. The online access to some Insurers' policy administration system was provided to intermediaries including Automotive Dealers.

14. Some Insurers had created intermediary code for other than licensed entity. Intermediary code number is different in cover note and the policy copy. Intermediary name is different in cover note and the policy copy.

15. Some Insurers had given online access to entities Automotive Dealers and mapped them with licensed entity which establishes that the Insurers procured and solicited the business through unlicensed entities.

16. In some cases, the major marketing and distribution model of some Insurer is to allot intermediary code / online access for other than licensed entities / DSAs / LGs / Automotive Dealers etc., and map the business sourced through these entities under the code(s) of licensed intermediaries.

17. Some Insurers had allotted online access to Automotive Dealers and treated them as intermediary and also had allotted intermediary code for these Automotive Dealers.

18. The premium register of some Insurer reveals that the Automotive Dealers are said to be the Agents or other interested party.

19. In some cases, the refund of premium, if any will go into the account of Automotive Dealer and not the insured / customer though the payment of Insurance premium was made by the insured / customer.

20. The sample copies of Cover Notes of some Insurer indicate that the Automotive Dealer is engaged in soliciting Insurance business and getting remunerated. However, it was shown that the services are engaged as a service provider for carrying out customer awareness campaigns, dispatch of policies, advertisements etc.

21. The unlicensed individuals / entities are maintaining Cash Deposit account with some Insurer for adjustment of premiums, where the policies were solicited by them.

22. Some Insurers, apart from engaging the unlicensed entities in soliciting Insurance business had also delegated the power to collect the premium, allow discounts on filed premiums, and accept the risk by issuing Cover Notes.

23. In some cases, the underwriting documents of the policies booked under Direct Referral category clearly establishes that the Automotive Dealers are used in soliciting Insurance business and were remunerated under account head of support services.

24. In some cases, the Automotive Dealers are sending the premium net of the amounts due to them towards their remuneration and the Insurer is accepting the risk even before the amounts are received towards premium in violation of provisions of Sec. 64 VB (1) (2) and (4) of Insurance Act 1938.

25. The cover note/proposal of some Insurer noticeably confirms the name of the intermediary. The policy copies indicate the Agent Name as Direct but it bears the respective intermediary code in reduced fonts at the bottom of the policy.

V. Claims:

1. The Claims settled by some Insurers are in favour of the Automotive Dealers and not the insured.

2. In some cases, the Dealer/Manufacturer appoint surveyor.

3. The 'headlight assembly' is manufactured by using of plastic material and in case of partial loss it will attract other parts depreciation instead of 50 percent. Some Insurer had provided this arrangement only for the policies sourced through the Dealers of particular manufacturer. Depreciation on headlight assembly as per other parts. The Insurer in the cases of business sourced through other channel had applied the 50% depreciation on head light assemblies.

4. Some Insurers agreed under the agreement with manufacturers that "No deduction will be made from claim amount in account of salvage at the time of claim settlement”.

VI. Others:

1. In some cases, the Dealers facilitate Insurance business through Brokers. The reimbursement of expenses is given to Dealers.

2. In some cases, Insurance Broker arranges business through Dealers. The Insurers pay expenses to Dealers.

3. In some cases fee is being paid by some Insurers for utilization of the infrastructure established and maintained by or through manufacturer and for access to customer database that would be available to the Insurer, service charges payable to Dealers for providing support at Dealerships.

4. Some Insurer has communicated its Board decision for approval for maximum of 40% outgo in case of Motor Own Damage (OD) (Private car & Commercial vehicle) premium procured by its operating offices, which include discount on erstwhile IMT and reimbursement of infrastructure expense.

5. In some cases, the Automotive Dealers have taken the Agent's licenses in the name of their spouse/employee/relative and procuring business on their behalf and earning commission. Also by way of infrastructure expenses they are claiming as additional amount.

6. The internal note of some Insurers mentioned that the Automotive Dealer is placing the 100% business with another Insurer and to grab that business, more payouts to be offered.

7. The Controlling' offices of some Insurers have their own local tie-ups with the Automotive Dealer

8. Some Insurers are obtaining letter from Automotive Dealers requesting for booking of business sourced by them through a particular Agent.

9. Some Insurers are using name of licensed Brokers to a particular direct code and booking of business under that direct code which was actually sourced through other unlicensed entity viz. Automotive Dealer / firm / individual. The Insurers were not printing intermediary name on the policy and in some cases the intermediary name on policy was printed as "Direct".

10. In some cases, training is used as a camouflage for making payments to these unlicensed entities for sourcing of Insurance business.

11. Some Insurers availed services from its service providers; Prepare daily report, Prepare report on market analysis on various objective parameters and / or Prepare reports on marketing awareness in general. But Insurer has no such reports submitted by its vendor.

12. Some Insurers’ major business booked under direct business code was sourced through unlicensed entities and the payments to these entities are booked under accounting head ‘marketing expenses’.

13. In some cases, the facilitation charges were paid under the accounting head of ‘Joint sale promotion’. The arrangement is apparently in line with referral arrangement. However, the route of joint sale promotion was chosen by the Insurer to avoid obtaining approval of the Authority for referral arrangement.

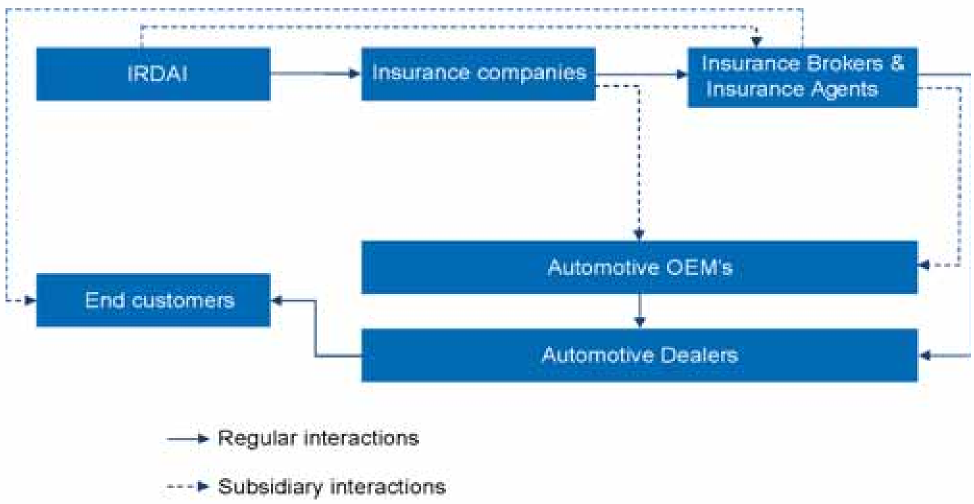
14. Some Insurers had solicited and procured Insurance business from some unlicensed entities and paid them by way of Insurance commission and / or remuneration / reward under other accounting head i.e. Data processing charges.

15. Some Insurers engaged unlicensed individuals / entities / Automotive Dealers / travel Agents / cooperative banks for soliciting Insurance business. The business solicited through unlicensed individuals is categorized as "Direct Business", and the remuneration was paid in the name of "Reimbursement of support services", "Consultancy fee", to these individuals / entities etc.

16. In some cases, the business solicited through some unlicensed individuals/entities has been booked as "Direct Business", and the remuneration was paid in the name of reimbursement of support services.

17. In some case, it emerges from the agreements, bills, expense pattern and accounting method that to accommodate the payments towards solicitation and procurement of Insurance business, the Insurer had entered into agreement with these Automotive Dealers under the support services to facilitate Insurance business.

4. ECOSYSTEM OF MOTOR INSURANCE IN INDIA



Understanding the role played by the various stakeholders in the sales and servicing of Motor Insurance

i. Automotive Dealers:

Automotive Dealers are the ones that are in direct contact with customers, especially at the time of purchase of a new Motor Insurance policy. This is because most customers prefer to purchase the automobile as well as all the related products, like Insurance, together from a single source as it reduces their hassles. Automotive Dealers also benefit from facilitating sale of Motor Insurance as it provides them with an additional revenue stream. It also provides them with more opportunities of customer interface/ contact, which they leverage for facilitating policy renewals, for attending accident repairs, etc., which further increases their income sources from the sale of spares and services

ii. **Automotive Manufacturers:**

Automotive Manufacturers tend to monitor the sales and service of all the products that are sold at the authorized Dealerships including Insurance. This is because the end customers hold the Manufacturer brand responsible for any product that is sold by their authorized Dealers. Of late, due to severe market competition, Manufacturers have become interested in promoting the sale of Insurance policies at their dealerships. Insurance policies have also become an important selling point for manufacturers.

iii. **Insurance Agents:**

Insurance Agents act as the bridge between Insurance Company and Automotive Dealers. An Insurance Agent represents the Insurance Company and is responsible for marketing their products. They provide the necessary support, in terms of understanding the products to Automotive Dealers for servicing Motor Insurance. It is also the observation of the committee that the duality of Agents attached to the dealer for marketing, and hence, receive commission, and payment to the Dealer for non-core activity is increasingly becoming irrelevant and blurred.

iv. **Insurance Brokers:**

Insurance Brokers typically represent the end customers. They get the product details and the quotations from several Insurance companies and the customer can then choose the one that suits their needs the best. They also monitor claims TAT and other service parameters. It is relevant to mention here that a Broker once appointed by a customer, is under obligation to extend services to the customer during the subsistence of the contract, including claim advising and claim assistance.

v. **Insurance Companies:**

Insurance companies design the various Motor Insurance products and provide the necessary training to the Brokers/ Agents who wish to market their products. Through the intermediaries, they provide the Motor Insurance policies to the end customers and settle any claims that the end customers raise.

vi. **Insurance Regulatory and Development Authority of India (IRDAI):**

IRDAI is the body that regulates the overall sales and servicing of the various Insurance products in the Indian market. Its key responsibility is to make sure that the sellers of Insurance products follow a broad set of rules to make sure there are no malpractices that are undertaken and that the business is sustainable for all the stakeholders involved, and, at the same time, ensure that the policyholders are treated in a fair and transparent manner.

5. ISSUES FACED & SUGGESTIONS FROM THE VARIOUS STAKEHOLDERS

5.1 Issues faced & Suggestions by the Automotive Dealers:

In light of the above observations, the Committee considered it appropriate to meet different stake holders to obtain their observation/opinion on the anomalies discussed above and suggestion for permanent elimination of the anomalies, while looking for larger penetration of motor insurance:

1. A meeting was held with Insurance Companies in Mumbai on 2nd Dec 2015: The key issues faced by them and their suggestions are under:

1) Automotive Dealers are not a recognized channel for selling Motor Insurance

2) High competition resulting in more than adequate payouts and lower margins

3) Inadequate headings to account for the payouts to Automotive Dealers under Outsourcing Guidelines

2. A meeting was held with Insurance Brokers in Mumbai on 2nd Dec 2015

1) Representatives from several of the major broking companies were invited for a discussion, important among them were Aditya Birla Insurance Brokers Limited, Toyota Shusho Insurance Brokers, Mahindra Insurance Brokers Ltd and Marsh Brokers.

2) The key issue faced by them and their suggestion is that the Automotive Dealers are not licensed entities

3. Meetings with Automotive OEM's in Delhi on 7th Dec 2015

1) Representatives from the major Automotive OEM's were invited for the discussion

4. Meetings with Automotive Dealers in Delhi on 7th Dec 2015

1) Representatives from the major Automotive Dealers across the country were invited for the discussion.

2) The key issues faced by them and their suggestions are as under:
   - i) High investments required for selling and servicing Motor Insurance
   - ii) Auto Dealers should be registered, not licensed, with IRDAI
   - iii) Providing cashless claim facilities is an issue
   - iv) Too many stakeholders to deal with
   - v) Customers look for discounts and freebies

5. **Meeting with Insurance Agents in Hyderabad on 17th Dec 2015**

1) Representatives from the major Insurance Agent associations were invited for the discussion.

2) The key issues faced by them and their suggestions is that the payouts to Insurance Agents should be at par with that for the Dealers.

6. **The Policyholders are primarily looking for the following:**

1) Faster settlement of the claims

2) Hassle free claims process

3) Advice on choosing the best Insurance policy from the Automotive Dealers

4) The Automotive Dealer should take care of the paperwork for Insurance purchase, renewal and claims

Discussions were also conducted with the end customers those have purchased and renewed Motor Insurance and have also availed claims against the same, in order to understand their views on motor Insurance and the role of the Dealers and the issues faced by them and their suggestions.

Detailed extracts of the above discussions are as under:

i. **High investments required for selling and servicing Motor Insurance**

As per Automotive Dealers, selling Insurance is not their key objective as their focus is supposed to be on selling the Automobiles. However, as customers prefer to purchase the automobile as well as first time Insurance from a single source, they have had to invest in providing adequate real estate and well trained manpower to be able to sell and service Insurance.

Auto Dealers find it especially hard to convince customers to renew their policies on time. As per the Auto Dealers, each customer has to be called at least 4 to 5 times over a period of 2 months running upto the actual date of renewal of their Insurance policy.

Further, in order to effectively compete, the Auto Dealers have to invest in manpower to make sure that they are able to service Insurance policy better than their competitors.

In order to efficiently manage Insurance sales and service, Auto Dealers have to invest in various technologies that help them in storing the relevant customer data and retrieving it as and when required.

ii. **Auto Dealers should be registered, not licensed, with IRDAI**

Automotive Dealers have expressed their reservation on being licensed, as they fear that the compliance for licensing is complex and time consuming. However, they have shown the willingness to be registered so as to be responsible to the authority. They also indicated that any kind of licensing would be acceptable if the procedures and compliance is simplified considering their core business is not insurance.

iii. Providing cashless claim facilities is an issue

Most of Insurance companies are providing cashless Insurance claims to their end customers, under which, customers simply have to submit their claim and all their payable expenses, under the terms and conditions of the Motor Insurance policy, would be taken care of by Insurance companies through their Automotive Dealers.

So, if the automobile needs some repairs that it is payable under the terms Motor Insurance policy, the expenses for all the repairs, like spare parts, labour, etc., would be incurred by Automotive Dealers who would then get reimbursed by Insurance Company from whom the policy was bought.

In order to make this work efficiently, Automotive Dealers need to conduct the repairs immediately so that the end customers get possession of their automobiles as soon as possible, and Insurance Company should, in turn, reimburse the entire amount to Automotive Dealers immediately.

However, the Auto Dealers claim that Insurance companies tend to delay the reimbursement upto 60days, and sometimes, even 90 days or beyond. During this period, Automotive Dealers' working capital is stuck in such receivables. In order to fill the funding gap, the Auto Dealers have to take debts for which they have to pay additional interest which they otherwise would not have paid if they had been reimbursed on time.

iv. Too many stakeholders to deal with for servicing their customers

Though most of the Automotive Dealers prefer to work directly with the Insurance Companies, but, due to existing regulations, they are forced to operate through intermediaries like Agents/ Brokers.

Managing relationships with all these stakeholders is critical for Automotive Dealers in order to make sure that they provide the best service to the end customers.

However, it takes up a large amount of the Dealers' time to conduct the necessary paperwork, as required by law, to work with all these stakeholders involved in the process of selling and servicing motor Insurance products.

v. Customers tend to look for discounts and freebies from their Automotive Dealers which is putting pressure on their margins

5.2 Issue faced and Suggestion by the Automotive OEM's:

i. Automotive OEM's would act as an extended arm of the authority

The OEM's represented that they own the customer and it is their brand value which is at stake. They have also represented that they are not averse to act as an extended arm to the Authority, i.e.: IRDAI, and for doing that they will require to deploy resources for which they necessarily need commensurate remuneration.

5.3 **Issue faced and Suggestion by the Insurance Brokers:**

i. **Automotive Dealers are not licensed entities**

Most of the Brokers highlighted that Automotive Dealers, in spite of not being licensed; continue to solicit Motor Insurance business, which militates against the role of the Brokers which are highly regulated. Hence, it was desired by the Brokers that the Automotive Dealers also need to be recognized as a marketing channel.

5.4 **Issues faced and Suggestions by the Insurance Companies:**

i. **Automotive Dealers are not a recognized channel for selling Motor Insurance**

The Insurance Companies felt that Automotive Dealers are conducive to General Insurance industry. Being the first touch point for customers, Automotive Dealers facilitate awareness about the nuances of Motor Insurance policies; they also service customers in more than 1 ways, for e.g.: capturing details of the proposal, handing over "on the spot" policies, educating customers about the claims, handling customers' request for renewal. It is to be specially mentioned that these brick and mortar dealerships are also present in the remote corners of the country where the reach of Insurance companies is limited, and as such, they are valuable to the penetration of General Insurance.

At present, Automotive Dealers are not recognized by IRDAI as a channel for marketing and servicing motor Insurance products in India. As a result, they do not come under the purview of IRDAI.

ii. **High competition resulting in more than adequate payouts and lower margins**

The Insurance companies have felt that the payouts given to dealers are justified in view of the quantum of work and the facilitation provided by them, particularly in remote locations.

However, it has been observed that the payouts received from the Insurers, which are supposed to be passed on to the Insured or the Policyholder is not passed on to them.

Further, due to steadily increasing competition among the existing players and with new players entering the market, Insurance companies are compelled to offer more than adequate payouts to Automotive Dealers.

iii. **Inadequate headings to account for the payouts to Automotive Dealers under Outsourcing Guidelines**

As per current regulations, Dealers can get license as Broker/ Corporate Agent/ Agent in order to solicit Insurance business. However, due to stringent and elaborate compliance requirements, most of the Dealers avoid taking any kind of license. However, since they receive payouts despite not being licensed, any licensing is irrelevant to them.

Automotive Dealers, on their part, provide manpower and real estate that is dedicated for selling Insurance products. These investments need to be reimbursed by Insurance companies.

However, since Automotive Dealers are not a legal channel for selling Insurance, they cannot be paid directly by Insurance companies and have to be paid under the “Outsourcing guidelines” that are set by IRDAI.

The payouts made to the Automotive Dealers in lieu of space, and other infrastructure and services provided by the Dealers are way above than their realistic cost.

5.5 Issues faced by Agents:

i. Payouts to Insurance Agents should be at par with that for the Dealers

At present, Automotive Dealers get high payouts from Insurance companies, while the Agents get much less. This is despite the fact that, typically, Insurance Agents have to work much harder than Automotive Dealers, to attract and retain customers and to conduct the paperwork for maintaining and servicing Insurance.

Hence, Insurance Agents feel that they should also be paid on par with the Dealers to make sure that they are able to invest enough time and resources in addressing their customers' requirements.

5.6 Customers' expectations from Insurance companies:

i) Faster settlement of the claims

Once a customer submits a claim, it tends to take several days, and sometimes weeks, for the survey, repairs, refunds, etc. Customers wish to have a claim settlement process that is much faster so that they can get the possession of their cars in the least possible time frame.

ii) Hassle free claims process

Most of the end customers have little time and understanding for filling out the paperwork required to undertake the claim settlement process.

As a result, customers feel that there should be less paperwork in the entire process, hence making sure that they do not have to spend too much of their own time in filling out the various forms for settling their claims.

Many of customers are even alright with going for a 3 year Insurance policy with annual premium payment in order to reduce the time spent in renewing Insurance every year. They also would prefer such a policy as they were of the opinion that it would be cheaper than the current 1 year policies. However, some customers did not prefer such a policy as they may plan to sell off the car within 3 years.

5.7 Customers' Expectations from the Dealers:

i. Advice on choosing the best Insurance policy

The customers/ insured have stated that, though ostensibly they have the choice of Insurance companies, in reality, indirectly they are induced to choose among those Insurance companies which have a tie-up with that Automotive Dealer. To their mind, it is an important limitation.

Customers tend to prefer a one stop solution provider who can provide them with the automobile as well as the finance and Insurance required for the same.

Hence, when it comes to choosing the best motor Insurance policy, customers would like their Dealers' advice in going through all the available policies in the market and highlighting the best among them, from which customers can then choose the best one for purchase.

ii. Taking care of the paperwork and speeding up the claims process

Since customers tend to be busy in their own activities, they do not wish to spend too much time in conducting the paperwork for claiming Insurance. Hence, they want their Dealers to help them through the entire process and conduct most of those activities, while keeping customers updated on the progress of the claims. They also wish that their Dealers should make sure that the overall claims process is completed quickly and they get back their vehicles in the least amount of time.

Apart from speaking to the various stakeholders, the committee also studied the global practices in the Motor Insurance market, to understand how they are addressing similar issues and to identify the best practices.

6. INTERNATIONAL PRACTICE

Case study from the United Kingdom (UK)

Regulation

From 1 April 2013, the body which regulated the UK financial services industry, the Financial Services Authority (FSA), was replaced by two new regulatory bodies.

1. The Prudential Regulatory authority (PRA): regulates the key aspects of financial strength of a firm

2. The Financial Conduct Authority (FCA): Regulates how firm behave

The Prudential Regulation Authority (PRA), as part of the Bank of England, is the United Kingdom's prudential regulator for banks, building societies and credit unions (collectively deposit-takers), Insurers and major investment firms in 2013. A third of Prudential Regulation Authority (PRA) staff focus on Insurance - setting the rules and ensuring that firms are following them. The Bank of England has teams with a mix of industry and regulatory experience, ranging from those who have worked for motor Insurers or pension providers, to technical specialists like actuaries.

As Insurance is a global business, the Bank of England works closely with the European regulator EIOPA and participates in international groups like IAIS – setting standards for Insurance firms across the world. The focus for the Bank of England is the financial soundness of Insurers - ensuring that firms can pay valid claims if and when they fall due. Some of the larger financial services firms, such as banks and Insurance providers, will be regulated by both of these regulators. Smaller financial services firms, such as financial advisers and asset managers, will be regulated only by the FCA. In these instances, the FCA will not only regulate how these firms behave but also regulate all aspects of the financial strength of a firm.

Motor Insurance

An Automotive Dealer wishing to sell Insurance backed products, like the following, is required to be authorized & regulated by the Financial Conduct Authority.

a) GAP Insurance

b) Warranty

c) Tyre Insurance

d) Alloy Wheel Insurance

e) Dent Insurance

Additionally, their authorization requires certain processes and procedures to be in place when recommending and selling these products. An Automotive Dealer has 2 options when applying for this authorization. Auto Dealers dealing with Insurance and financing activities are to register with FCA and have to be authorized by PRA.

Registration Process (Auto Dealers for Motor selling Insurance)

Option 1: Direct Authorization from the FCA

a) Dealer completes and submits 70 page application to the FCA

b) Dealer pays application fee (Straight forward application £1500 whether or not accepted)

c) Dealer pays Annual fee to the FCA, minimum £1000 for smallest Dealer

d) Dealer pays Annual Accreditation Fees and implements accreditation testing for all sales staff to regulatory standard

e) Dealer purchases separate Professional Indemnity Insurance to FCA requirements (min £1.5M cover)

f) Dealer installs own processes and procedures in line with regulation

g) Dealer produces an Initial Disclosure document and demands needs documentation

h) Dealer keeps all processes procedures and documentation updated with regulatory changes

i) Dealer writes and implements Treating Customer Fairly policy

j) Dealer assumes full risk and responsibility of penalties from the regulator

Option 2: Automotive Compliance Appointed Representative

Automotive Compliance is a privately owned company directly authorized and regulated by the Financial Conduct Authority. They, in turn, provide all the necessary training and assume the responsibility for keeping up with the regulations, complying with them and conducting all the paperwork. The auto Dealers can sign up with Automotive Compliance for becoming an "Automotive Compliance Appointed Representative" (AR) for the sale of General Insurance products at their Dealerships.

The process to be followed for the same is as given below:

a) Automotive Compliance completes the application (no fee)

b) Automotive Compliance trains all staff, with yearly accreditation certification

c) Automotive Compliance build bespoke online Demands and Needs

d) Automotive Compliance monitors compliance

e) Automotive Compliance updates regulatory changes

f) Automotive Compliance carries out all reporting to the FCA

g) Automotive Compliance assumes full risk and responsibility of the regulator

h) Dealer pays monthly licence fee equivalent to current total FCA costs

7. RECOMMENDATIONS:

The committee, being cognizant of the ground reality and in consideration of the recommendations and suggestions received from various stakeholders is of the considered view that it is important for the committee to recognize and recommend a new regulatory framework in such a fashion that the reality and regulations come into sync. And therefore, based on the suggestions and observations of the various stakeholders as well as deliberations by the honorable members of the committee, following recommendations are submitted to the authority for their consideration.

In view of the opportunities and restrains discussed above, the committee has contemplated four structural frameworks to ensure discipline in Motor Insurance distribution, while ensuring maximum penetration and convenience.

1. The following Channels of distribution may be allowed by the Authority to source Motor Insurance:

Model 1: Auto Insurance Marketing Firms

Keeping in view the control of the Automotive Dealers on the sale and services of Motor Vehicles in the country and the fact that the Automotive Dealership is the natural point of aggregation of Motor Vehicles, the committee considers it appropriate to accord regulatory recognition to such entities for the purpose of distribution of Motor Insurance products.

Admittedly, Motor Insurance is a standard prototype product still governed by standard tariff, which does not require extended interactions of the Insurer or its representatives with the customer at the point of sale. In view of the same the entity which is distributing Motor Insurance exclusively may not be a full-fledged intermediary as prescribed under different regulations of the authority, equipped to solicit and sell any Insurance product.

The recent Corporate Agency Regulations issued by the Authority accords rights to the Corporate Agents to work for and on behalf of upto 3 Insurers at the same time. In consideration of the above, the contemplated entities (the Automotive Dealers) may be accorded a status akin to Corporate Agents with limited but necessary formalities at the time of induction and during subsistence of their status as a recognized entity.

While discussing about giving recognition to new entity with rights and responsibilities different from any other Insurance intermediary, the committee considers it necessary to define the entities in terms of their identity and qualification for the purpose of according the recognition as discussed. In the present circumstances, majority of the Automotive Dealers work for/ with a single manufacturer and therefore have specialized knowledge about the manufacture and performance of the products of the concerned manufacturer. Acknowledging the fact that such Automotive Dealers would be the most appropriate incumbents for according the recognition, the committee considers the following definition appropriate:

"Any authorized dealer of Motor Vehicle Manufacturer may only be allowed to act as AIMF"

Drawing analogy to a recent circular issued by the authority on distribution of standard OTC products by entities namely "Point of Sale Persons (PSP)", the committee feels that the same analogy can be adopted for the present entities under discussion (Automotive Dealers) as the Automotive Dealers and the formalities and requirements of PSP's may be prescribed for the Automotive Dealers.

For the sake of brevity, the primary attributes of Automotive Dealers contemplated to be given recognition for procurement of Motor Insurance business discussed above are as under:

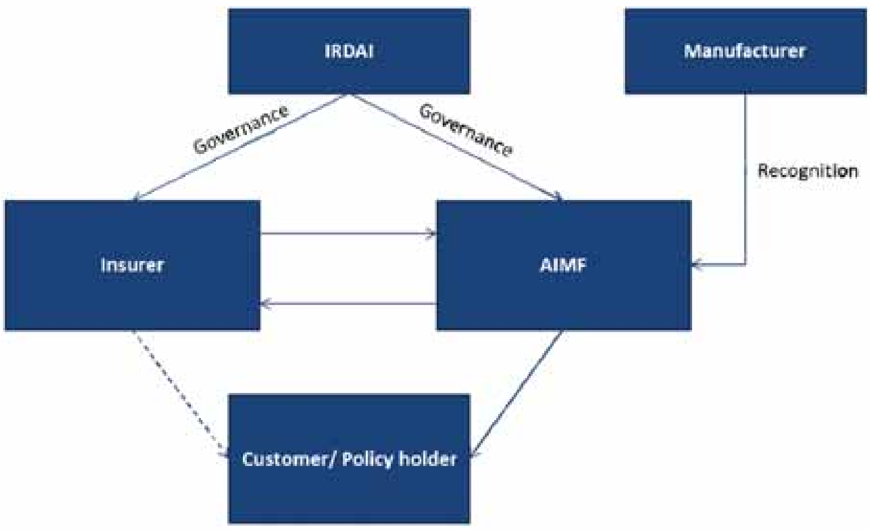
a. The entities may be called as "Auto Insurance Marketing Firms (AIMF)"

b. "Any entity engaged in the business of sale/ distribution or service of Motor Vehicles under an express authorization of a Motor Vehicle Manufacturer" may only be eligible to act as Auto Insurance Marketing Firms (AIMF)

c. The structure for administration of AIMF may be drawn akin to the structure for administration and governance of Corporate Agents. However, keeping in view the fact that the AIMF's would only be distributing standard, tariffed, OTC products, the formalities required for their registration and continuous administration may be relaxed

d. The consideration for their work may be paid by the concerned Insurers they are associated with, by way of commission in accordance with the Expenses of Management Regulations applicable to the Insurers

Administrative structure:



Advantages and Disadvantages of AIMF:

Amongst others, the committee feels that the following advantages could be derived upon recognition of the AIMF's as recognized intermediaries for Insurance distribution:

1) The AIMF's being the primary aggregation point of Motor Vehicles, enabling them to distribute Motor Insurance may substantially address the under penetration of Motor Insurance in the country

2) The AIMF's, by virtue of their definition, being associated with the manufacturers are better poised to evaluate the risk associated with the vehicles and insurability of such risks

3) Having been able to register and administer the AIMF's, the IRDAI can bring the Automotive Dealers within the purview of regulatory control, which are till now unregulated even though such entities deal with assets of substantial worth belonging to the public

Having discussed the advantages associated with the contemplated structure of AIMFs, the committee also debated upon the disadvantages/ drawbacks with AIMFs and amongst others, identified the following major disadvantages:

1) Induction of the new structure, at this point of time, may disrupt the market for a while, till the new structure gets settled

2) The committee feels that there is a potential for conflict of interest in the structure, which the committee has tried to address in the subsequent section

Model 2: Procurement of Insurance business through Brokers (Broking Model)

The committee also debated upon a potential structure where a recognized Insurance Broker shall intermediate between the Insurer and the Automotive Dealers. Under this structure, the Broker shall remain responsible for all the acts of commission and omission of the Automotive Dealers. Under this model, the broker shall deploy his manpower for providing the services to the customers. Alternatively, the insurance brokers may appoint motor dealer as POS.

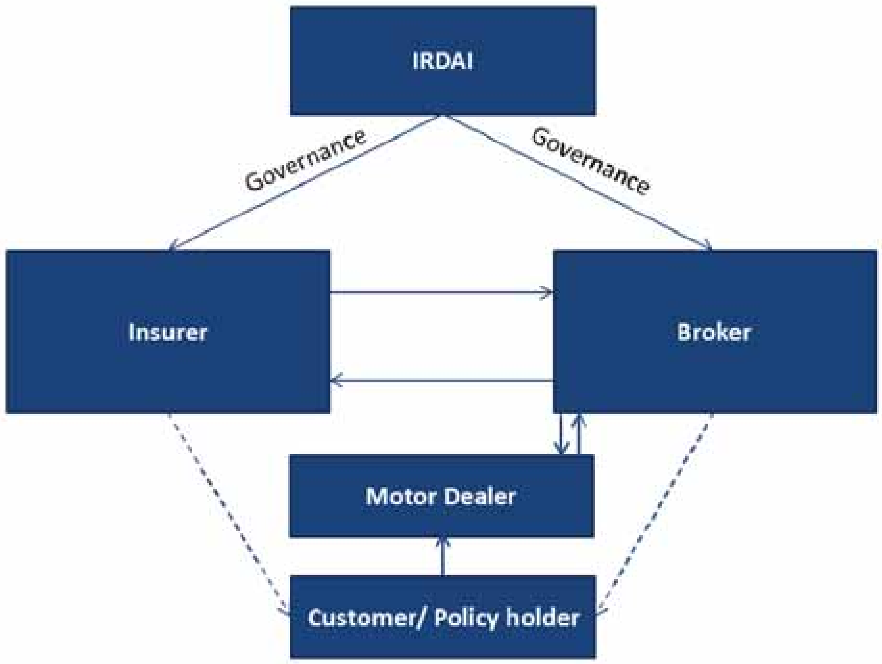
The committee feels that in such case, IRDAI should not allow insurance companies or insurance intermediaries to outsource whether any core or non-core activities to Automotive Dealers or to the Auto Manufacturers. Any payment to the automotive dealers other than the commission / remuneration expressly allowed by the Authority whether by the insurance broker or by the insurance company shall be liable for action which may include the following

- Apart from penal action which may be taken on the insurance company, the officials of the insurance companies who are involved in such activities may be unfit to such post for a period of not less than 3 years.

- Where the broking entity is found to be involved in such payouts that the license of such broking should be cancelled and the promoters / shareholders should not be allowed to enter in the insurance market for a minimum period of three years.

However, no Automotive Dealer, which has not been appointed as POS under the governing prescriptions of IRDAI for the purpose will be prohibited from procuring any Motor Insurance business directly from any prospect or derive any remuneration in whatever name called from any insurer or insurance intermediary either by itself or through its nominees or representatives for procurement of insurance business. Further, the Insurers and Insurance intermediaries must be prohibited from giving any fee, remuneration or reimbursement to such Automotive Dealers for any other work in the form of a percentage or proportion relatable / the Premium procured by such Insurer or Insurance intermediary from such dealership points.

The contemplated administrative diagram of the Broking structure is as follows:



For the sake of brevity, the primary attributes of the Broking model are as under:

1) Any registered Broker entitled can procure Motor Insurance business at Automotive Dealerships in adherence to the applicable laws and regulations in force

2) The Broker shall have the primary responsibility (to the customer) for any act of omission or commission arising out of mis-selling or otherwise by any of its representatives

Advantages and Disadvantages of Broking Model:

Amongst others, the committee feels that the following advantage could be derived from the Broking Model:

The Brokers, by virtue of their experience and capacity, are believed to drive the program uniformly across the Automotive Dealers

Having discussed the advantage associated with the Broking Model, the committee also debated upon the disadvantages/ drawbacks with Brokers and amongst others, identified the following major disadvantages:

1) As per the market experience, Brokers are generally appointed by the Manufacturers and, as such it is observed that they converge their interests with the Manufacturers, rather than Customers whom they are supposed to serve.

2) The committee feels that there is an active conflict of interest in the structure, which the committee has tried to address in the subsequent section

3) From the market experience, it is also observed that the Brokers engage in driving down the premia to the level of unsustainability, which ultimately affects the interests of the individual customers

4) The Broker model is in fact a reshaping of the existing model, which the authorities would feel has not protected the consumers interests adequately

Model 3: Automotive Dealers as POS under Licensed Intermediaries

Admittedly, Motor Insurance is a standard prototype product still governed by standard tariff, which does not require extended interactions of the Insurer or its representatives with the customer at the point of sale. In view of the same the end entity which is distributing Motor Insurance may not be a full-fledged intermediary as prescribed under different regulations of the authority, equipped to solicit and sell any Insurance product. The product innovation, customer centricity of the product and service level may be handled by an insurer or an intermediary (an entity which is regulated by the Authority) who will be responsible for all the acts of commission and omission of the Automotive Dealers.

In line with the above, it is proposed to have a regulated entity for oversight on Automotive Dealers and for overall compliance. The regulated entity should not be having any conflict of interest with any of such Automotive Dealerships. The Automotive Dealerships shall not be remunerated for outsourcing and marketing/ providing brand visibility.

A recent Guidelines issued by the Authority accords rights to the Point of Sales Person (POS) to work for and on behalf of insurer/ Brokers/ Corporate agents for standard and commoditized products. In consideration of the above, the Automotive Dealers may be accorded a status of POS with all the formalities of POS complied-with. The POS Guideline contemplates the POS to be a natural person, however in the present structure proposed there could be situations where the Dealership is not a natural person but a legal person. In such cases, the Dealership may be allowed to appoint a natural person as his representative to act as a POS. In order to effect the change, the Authority may introduce necessary amendments to the Guidelines as it deems fit and appropriate.

For the sake of brevity, the primary attributes of Automotive Dealers contemplated to be given recognition for procurement of Motor Insurance business discussed above are as under:

a. The entities may be called as “POS”

b. Point of Sales Person" may mean an Individual who possess the minimum qualifications, has undergone training and passed the examination as specified in these guidelines and solicits and markets only certain pre-underwritten products approved by the Authority. This may also include any legal entity which is acting through an individual with the qualification and training as cited here.

c. “POS” may be entitled to distribute Motor Insurance products for the Insurance Co./ Broker/ Corporate Agent they are registered with.

d. The structure for administration of “POS” may be drawn on the lines of the existing POS Guidelines.

e. Regulatory compliance, responsibility and liability of the “POS” may be entrusted upon the Insurer/ Licensed intermediary who appoints the “POS”

The consideration for their work may be paid by the concerned Insurers/ Licensed intermediary they are appointed by, by way of commission in accordance with the proposed IRDAI Regulations on payment of commission or remuneration/ rewards. However, no other payouts shall be permitted to POS / automotive dealers either by the broker / corporate agents or by the Insurance company. Any entities found to be involved in payouts shall be subject to the penal action as suggested AIMF.

Advantages of POS Model:

1) IRDAI may not introduce a new channel or intermediary as POS is already an existing structure with appropriate regulatory and governance prescriptions. Once the entities are allowed to function as POS, it will help in penetration in the insurance industry.

2) Commission/ remuneration to licensed intermediaries is contemplated to be under strict compliance with IRDAI guidelines

3) The Insurers/ Brokers/Agents, by virtue of their experience and capacity, are believed to drive the program uniformly across the Automotive Dealers bringing best practices for the benefit of the customer.

4) Insurers/ Brokers/Agents are the experts in the field and the customer would be benefitted from their involvement as POS would be overseen by Insurers/ Brokers/Agents.

Disadvantages of POS Model:

1. Ensuring all the Automotive Dealers enrolled as POS is an elaborate activity. However the programme would be considered as successful, if majority of the Automotive Dealerships convert to POS.

2. Under the existing Guideline for POS, the POS is considered as an individual relatively independent of the entity it is working for (The license of POS does not cease with cessation of his relationship with the insurer/intermediary, he is working for). Such versatility of POS may deter orderly growth of penetration.

3. The requirement of training and examination may still discourage the Automotive Dealerships to convert themselves to POS

Model 4: Corporate Agent Model:

Under this structure, the Corporate Agent shall remain responsible for all the acts of commission and omission of the Automotive Dealers. Under this model, the Corporate Agent shall depute his specified person for providing the services to the customers. The Insurance company or corporate agents shall not be allowed to outsource any activities to automotive dealer and no other payouts in any name is permitted to the automotive dealers. Any entities found to be involved in payouts shall be subject to the penal action as specified in case of AIMF.

Notes on conflict of interest:

While recognizing the utility of the models suggested above by the committee, it is equally important to analyze their pros and cons, and trace conflict of interest if any.

The dealer business is being driven on the tie-ups which the Insurer enters into either with the OEM (Manufacturer of the vehicle) or with the broker appointed by the OEM. It is a common knowledge that there is debilitating competition among the dealers of various manufactures, so much so that many of the dealers business is not sustainable by simply selling the cars due to discounts and various types of overheads. Under the circumstances non-core income i.e. income by other means rather than the margins from selling the car has assumed unprecedented importance. It is also learned from the market sources that many OEM dealers are on the verge of shutting their shop in India and for many of them it is the insurance payout which is sustaining them rather than margin from selling the cars. As such it is important to analyze the nature of tie-up and find out conflict of interest lurking therein.

A Tie-up arrangement is entered between Insurer and OEM / Broker. The Insurer desires the tie-up for accessing a near captive premium (we say near because there are other insurance companies in the tie-up). For the OEM and the dealers it is the claim which assumes importance. Claims means labour + parts. Under the tie-up arrangement it is agreed that the vehicles which needs repair due to accidents has to go to the dealer for cashless facility. Under the cashless facility the dealer uses the parts from his store and the repair and labour facility which he possess at his workshop. Parts are procured from the OEM; Labour charges for repair are the revenue model for the dealer workshop. As such the tie – up arrangement becomes a model of a captive market for parts and for propping up of the revenue of the dealer / its workshop. The broker being appointed by the dealer has the same interest as the OEM and as such is privy and interested in the Tie-up arrangement working as a mechanism for captive market for parts and revenue generation for the dealers.

Similar conflict of interest is available where the dealer is intermediary because he is procuring the business and providing cashless facility. Besides, both the models have ingrained disadvantage of rendering Motor premium portfolio emanating from dealers unsustainable.

Therefore the committee suggests the following checks and balances to contain the menace:

- Having recognized conflict of interest as a cognisable risk in the AIMF structure, the committee feels that the risk is containable in view of the fact that such AIMF's shall be within the regulatory control of IRDAI and the IRDAI shall have the authority to prescribe standard code of conduct for such AIMF's and exercise its authority of periodic inspection on such AIMF's and penal action on those found to be defaulting.

- However, in the broking structure and in the corporate agent structure, the Automotive Dealers not recognised within the regulatory control, the IRDAI may cast the responsibility of necessary due diligence on the concerned broker who should be responsible for acts of omission and commission of such Automotive Dealers including the any act of conflict of interest of the dealers.

However, the committee leaves it to the wisdom of the authority to decide and adopt a model in the best interest of the General Insurance industry.

The committee further recommends that

2. **Restriction on Payouts:** No Insurer, agent or any other intermediary should make any payment (either in the form of remuneration, commission or otherwise) for procurement of motor insurance business to any Automotive Dealer, who is not registered as an AIMF or as a POS as contemplated by this committee. Only those Automotive Dealers, who have registered themselves as an AIMF or as POS as contemplated by this committee be allowed to procure Motor Insurance business directly from prospects and receive remuneration thereof, as permitted under the law and in accordance with the prescriptions of the IRDAI.

3. The quantum of commission/remuneration/compensation to be received by any AIMF / Broker/ POS/ Corporate agent for procurement of Motor insurance business be decided by the Insurers within the overall limit of Commission / Rewards and Remuneration as specified in the relevant regulations and in accordance with the prescriptions of IRDAI in this regard. However, committee, looking to the cost and efforts involve in procurement and sourcing of the policies feels that commission for motor segment should be 15 percent and reward may be 20 percent of the commission.

4. The direct and indirect benefits (if any) derived by the Insurers in terms of incurred claim ratio of motor portfolio through the AIMFs be passed on to the customer.

5. The recommendations of the Committee (Consequent to its adoption by IRDAI) be put for strict observance and adherence by all stakeholders i.e. the Insurers, Agents, Corporate Agents, Brokers and the AIMFs. Any stakeholder found to be violating the norms and the prescriptions

may be subjected to strict penal action by IRDAI, which may extend to disqualifying any Key Management Person of the Stakeholder (found to be Involved in the said violation) and not considering him as “fit and proper” to serve the insurance industry for a given period of time. Further the license of the Insurance Intermediaries / AIMF/ Agents is found to be involved in the said violation may be liable for cancellation.

6. **Certification:** It may be made mandatory for every Insurer procuring Motor Insurance through any of the models suggested by the Committee to furnish a yearly certificate of compliance with respect to the prescriptions of IRDAI on governance of AIMFs duly endorsed by the Chief Executive Officer, Compliance Officer and Chief Financial Officer of the concerned Insurer supported by the necessary Board resolution. Such certificates may be filed with IRDAI along with the periodic returns filed by the Insurers under Section 31B of the Insurance Act, 1938.

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