



Ref: IRDA/NL/ORD/MISC/305/12/2020

Order in the matter of M/s Bharti AXA General Insurance Company Ltd

Based on the

- (i) Show Cause Notice (“SCN”) reference No. IRDAI/ NL/Bharti AXA/ SCN/ 189/ 2019-20 dated 2nd December, 2019 in connection with the on-site inspection conducted by the Insurance Regulatory and Development Authority of India (‘the Authority’ or ‘IRDAI’) from 26th to 29th March, 2018.
- (ii) M/s. Bharti AXA General Insurance Co Ltd’s (‘the Company’ or “Insurer”) response dated 24th December, 2019 to the aforesaid SCN.
- (iii) The submissions made by the Insurer during the Personal Hearing through video conference mode held on 12th November, 2020 at 04.30 PM, granted by the Chairman of the Authority.

1. Background:

- 1.1 IRDAI had conducted an onsite inspection of M/s. Bharti AXA General Insurance Company Ltd from 26th to 29th March, 2018. The inspection report, inter alia, revealed certain violations of provisions of the Guidelines on Motor Insurance Service Provider (MISPG) issued by the Authority vide IRDA/ INT/ GDL/ MISPG/202/08/2017 dated 31st August, 2017 and circulars thereunder, provisions of Insurance Act, 1938 and Regulations, Guidelines issued thereunder.
- 1.2 A copy of the inspection report was forwarded to the insurer on 6th June, 2018 seeking their response. On examining the submissions made by the insurer vide letter dated 22nd June, 2018, an SCN was issued on 2nd December, 2019. The company replied to the SCN vide letter dated 24th December, 2019. As requested for by the insurer therein, personal hearing was granted to the insurer on 12th November, 2020.
- 1.3 Shri Sanjeev Srinivasan, CEO & MD, Shri Rohit Kohli, Senior Vice President, Shri Saurav Jaiswal, Chief Distribution Officer, Shri Rohi Daga, Vice President, Distribution Common, Shri Amit Raheja, Chief Compliance Officer and Shri Jignesh Sangoi, Chief Risk Officer were present in the personal hearing on behalf of the insurer. On behalf of the Authority, Smt. Yegnapriya Bharath, CGM (Non-

Life), Shri. K. Mahipal Reddy, GM (NL) and Shri. A. Rama Sudheer, Manager (NL) were present.

- 1.4 The submissions made by the insurer in its letter dated 24th December, 2019 and during the personal hearing on 12th November, 2020 have been carefully considered by the Authority and on that basis the decision on each of the charges is given as under:

2. Charge no.1:

- 2.1 Violation of Guideline 5 (a) of MISPG–** The MISP shall be sponsored by either insurer(s) or an insurance intermediary.

It was observed that a few MISPs (sample of 15 dealers) were sponsored by both insurer and insurance intermediary. The insurer has enrolled MISPs based on documentation and information provided by dealers without proper due diligence and solicited business.

2.2 Summary of Insurer`s submissions:

- 2.2.1**The insurer submitted that MISPG came into effect from 1st November, 2017 and the dealers were trying to evaluate the pros and cons of direct MISP or through insurance intermediaries, which led to temporary ambiguity resulting in initial changes in sponsorship. The insurer further submitted that out of 15 cases mentioned in SCN, in 9 instances the auto dealers were sponsored by both insurer and intermediary and the arrangements were later deactivated upon receipt of the information that they were sponsored by insurance intermediaries. In the remaining 6 cases, the MISPs have dealerships of different OEMs and were sponsored by the company as MISPs with respect to OEMs where the MISPs had no sponsorship of either other insurer or insurance intermediaries.

- 2.2.2**The insurer further submitted that it has put in place a robust process to ensure detailed due diligence of MISPs prior to sponsorship. The requisite data of MISPs has been validated on IIB portal prior to sponsorship to ensure that the Company adheres to MISP Guidelines.

2.3 Decision on Charge no.1:

In view of the insurer resolving the issue of common MISPs and confirming that a robust process has been put in place to ensure detailed due diligence of MISPs prior to sponsorship, the insurer is advised to ensure that in future all the MISPs are sponsored either by the insurer or an insurance intermediary but not by both.

3. Charge no.2:

3.1 Violation of Guideline 5 (c) of MISPG by not issuing any appointment letters to the MISP sponsored by the insurer.

It was observed that out of 172 direct MISPs, only 34 MISPs were issued appointment letters. The insurer has not issued appointment letters to remaining sponsoring MISPs. However, the said MISPs solicited Motor Insurance business during this period.

3.2 Summary of Insurer's submissions:

3.2.1 The insurer submitted that the process of MISP documentation and signing up was time consuming and was required to be carried out with due diligence in line with the MISPG and that the assessment of broker sponsored MISPs, multiple dealership and direct MISPs was in the process of being done. The insurer further stated that they released the payments to only those MISPs where the process of execution of agreement and documentation was complete. The insurer vide letter dated 24th December, 2019 has submitted that they have since issued appointment letters to all MISPs in compliance with the MISPG.

3.3 Decision on Charge no.2:

3.3.1 The MISP Guidelines came into effect from 1st November, 2017. The appointment letters to insurer sponsored MISPs are required to be issued after training and examination. As the insurer has taken necessary steps subsequently for the issuance of all required appointment letters to the sponsored MISPs, the Insurer is hereby advised to ensure strict compliance of Guideline 5 (c) of MISPG in future.

4. Charge no.3:

4.1. Violation of Guideline 15 (5) (d) of MISPG– The MISP or any of its associate companies, shall not receive directly or indirectly from the insurer and the insurer shall not pay directly or indirectly to the MISP or any of its associate company any fees, charges, infrastructure, advertising expenses, documentation charges, legal fees, or any other payment by whatever name called except as specified in MISP guidelines.

Payments were made to direct MISP and the designated person of MISP for the facilities used and under infrastructure and professional fees respectively.

4.2. Summary of Insurer's submissions:

4.2.1 The insurer submitted that the payments made to parties mentioned in SCN dated 2nd December, 2019 were payments that pertain to the services availed by the company prior to October 31, 2017 whereas MISP Guidelines came into force on 1st November, 2017. The Agreements entered into with the identified entity / person were terminated with effect from 31st October, 2017. The insurer further submitted that the delay in processing of such payments was primarily on account of late receipt of the requisite invoice(s) from the vendor. The insurer submitted that the payments reflected in the said SCN were solely on account of services availed for the period upto October, 2017. The vendor had submitted the corrected invoice and the same was enclosed with the response.

4.3. Decision on Charge no.3:

4.3.1 The invoices and Payment Request Form (PRF) of the insurer in relation to two parties {(one MISP- (one invoice) and one designated person of MISP – (two invoices)} confirm the payments towards utilization of infrastructure etc., for the period upto November and December, 2017. The PRF is an internal document of the insurer in which the payment as per the invoices raised by the entities are processed for payment. The PRF document has three levels of checking and verification by the officers of the insurer. Hence, submission of the insurer that the vendor had submitted the corrected invoice later cannot be accepted as it is inconsistent with the available documents on record.

4.3.2 In view of the violations observed in the above cases of two parties in respect of Guidelines 15 (5) (d) of MISPG, the Authority in exercise of the powers vested under Section 102(b) of the Insurance Act, 1938 imposes a penalty of Rs. Five lakhs.

5. Charge No. 4:

5.1 Violation of Section 14 2 (h) of IRDA Act, 1999 read with Section 33 of Insurance Act, 1938: As per 14 2 (h) of IRDA Act, 1999 read with Section 33 of Insurance Act, 1938, the Insurer shall produce all such books of account, registers and other documents in its custody and furnish statements, information within such time specified.

The insurer has provided partial data, documents and information.

5.2 Summary of Insurer's submissions:

5.2.1 The insurer submitted that the company faced certain difficulties in submission of the information as the department of finance and accounts and allied functions embedded in IT structure were in the process of shifting from Bangalore to Mumbai. The relocation and coordination of the necessary records was already going on it and caused a little delay in submission of information.

5.3 Decision on Charge no.4:

5.3.1 The non-submission of the documents by the insurer for the purpose of undertaking inspection is viewed seriously. However, taking note of the insurer's submission, the insurer is hereby directed to ensure prompt submission of information/documents during the course of future inspections.

6. Summary of Decisions:

Charge No.	Violation of Provisions	Decision
1	Guideline 5 (a) of MISPG – Sponsorship	Advisory
2	Guideline 5 (c) of MISPG – Appointment letters	
3	Guideline 15 (5) (d) of MISPG – Indirect payments	Rs. 5 Lakh penalty
4	Section 14 2 (h) of IRDAI Act 1999 read with Section 33 of Insurance Act, 1938– Non submission of information	Direction

The penalty amount of **Rs. 5 lakhs** (Rupees five lakh only) shall be remitted by the Insurer by debiting the shareholders' account within a period of forty five days from the date of receipt of this order through NEFT/RTGS (details for which will be communicated separately). An intimation of remittance may be sent to Mrs. Yegnapriya Bharath, Chief General Manager (Non-Life) at the Insurance Regulatory and Development Authority of India, Survey No.115/1, Financial District, Nanakramguda, Hyderabad 500032, email id - ypriyab@irda.gov.in.

Further,

- i. The Order shall be placed before the Board of the General Insurer in the upcoming Board Meeting and the General Insurer shall provide a copy of the minutes of the discussion.
 - ii. The General Insurer shall submit an Action Taken Report to the Authority on direction given within 90 days from the date of this Order.
7. If the Insurer feels aggrieved by this Order, an appeal may be preferred to the Securities Appellate Tribunal as per the provisions of Section 110 of the Insurance Act, 1938.

Place: Hyderabad
Date: 30th December, 2020

Sd./-
(Dr. Subhash C. Khuntia)
Chairman