



Order in the matter of M/s IFFCO Tokio General Insurance Company Ltd

Based on the

- (i) Show Cause Notice (hereinafter referred to as "SCN") reference No. IRDAI/NL/IFFCO/SCN/147/2020-21 dated 24th August, 2020 in connection with the on-site inspection conducted by the Insurance Regulatory and Development Authority of India (hereinafter referred to as 'the Authority' or 'IRDAI') from 30th July, 2018 to 1st August, 2018.
- (ii) M/s. IFFCO Tokio General Insurance Co Ltd's (hereinafter referred to as "ITGICL" or "Insurer") response dated 14th September, 2020 to the aforesaid SCN.
- (iii) The submissions made by ITGICL during the virtual Personal Hearing held on 17th December, 2020 at 11:00 AM, granted by the Chairman of the Authority.

1. Background:

- 1.1 IRDAI had conducted an onsite inspection of M/s. IFFCO Tokio General Insurance Company Ltd from 30th July, 2018 to 1st August, 2018. The inspection report, inter alia, revealed certain violations of provisions of the Guidelines on Motor Insurance Service Provider (hereinafter referred as MISPG) issued by the Authority vide IRDA/INT/GDL/MISP/202/08/2017 dated 31st August, 2017 and circulars thereunder, provisions of Insurance Act, 1938, Regulations, Guidelines issued thereunder.
- 1.2 A copy of the inspection report was forwarded to ITGICL on 4th January, 2019 seeking their response. After examining the submissions made by the insurer vide their letter dated 5th February, 2019, a show cause notice was issued on 24th August, 2020. The insurer responded vide letter dated 14th September, 2020. As per their request, personal hearing was granted on 17th December, 2020.
- 1.3 Smt. Anamika Roy Rashtrawar, MD & CEO, Shri Sanjeev Chopra, ED & CFO, Shri Abhay Kumar, ED (Retails) and Shri Amit Jain, CS & CCO were present in the personal hearing on behalf of ITGICL. The Authority was represented by Smt. Yegnapiya Bharath, CGM, Non-Life Department, Shri. Randip Singh Jagpal, CGM, Intermediaries Department, Smt. Anita Josyula, GM, Non-Life Department, Shri. Rahul Kumar Agrawal, Manager, Non-Life Department, and Shri. A. Ramasudheer, Manager, Non-Life Department.

1.4 The submissions made by ITGICL in its letter dated 14th September, 2020, during the personal hearing on 17th December, 2020 and subsequent written submission on 21st December, 2020 have been considered carefully. The details are as under:

2. Charge no.1

2.1 **Violation of Guideline 9 (d) of MISPG and Section 14 (2) (h) of IRDA Act, 1999** – The insurer has not provided information/data/documents sought by the Authority.

2.1.1 The insurer was asked to provide the invoices and underwriting documents of 30 sampled policies. However, only 13 policy documents were provided on the last day of the inspection and that too could not provide required information such as invoice copy, premium receipt, etc.

2.2 Summary of Insurer's submissions

2.2.1 The insurer submitted that policies are issued at MISP partner's location through the insurer's portal which has checks and validations in place to ensure that the details filled by the partner such as RTO city/ location, engine number/chassis number, IDV and NCB are in order both for new vehicles and the renewals. Authority to modify/endorse the risk details lies with the operating/underwriting offices. MISP has no authority to modify/edit the vehicle details at the time of renewal.

2.2.2 The insurer further submitted that copies of the invoices are not available in case of motor insurance policies. When the policy is solicited through MISPs, calculation of premium is done by the MISPs based on the master IDV, the insurer does not get invoice for each vehicle in such cases, but for individual customers invoices are collected.

2.3 Decision on charge no.1

2.3.1 Non-submission of the information/data/documents sought by the inspection team within the specified timelines makes the whole exercise of inspection futile.

2.3.2 However, considering that the insurer has submitted all the information except for information which is not readily available with them, the insurer is hereby **issued an advisory** to ensure that the information/data/documents sought by the inspection team are submitted within the specified timelines.

3. Charge no.2

3.1 **Violation of Guideline 15 (5) (d) of MISPG** – The insurer has made payments to MISP in the name of ‘data processing charges’, ‘other support functions’ and ‘advertisement head’ post November 2017, i.e. after introduction of MISP Guidelines. These payments are other than distribution fees as specified in the guidelines.

3.1.1 Payments made in the name of ‘data processing charges’ and ‘other support functions’:

3.1.1.1 Many invoices submitted by the insurer showed payment of ‘fee other than distribution & reward’ to MISPs even after November, 2017. Description of service on the invoices was mentioned as data processing charges and charges for putting up standees for the months ranging from November, 2017 to March, 2018.

3.1.2 Payments made under the advertisement head:

3.1.2.1 On examination of expense ledger for ‘advertisement head’ for FY 2017-18, it was noted that expenses booked for various motor/auto dealers post November 2017 amounted to Rs.70.14 Lakh.

3.1.2.2 It is pertinent to note that some of the motor/auto dealers were MISPs sponsored by the insurer, as per the pre-inspection data submitted to the Authority.

3.2 Summary of Insurer’s submissions

3.2.1 Payments made in the name of ‘data processing charges’ and ‘other support functions’:

3.2.1.1 The insurer has submitted that the dealers, who were given the job of data processing prior to 01st November, 2017 completed their assignments in the subsequent months and accordingly raised the bills for those months which were settled by the company in the subsequent period. The insurer has also submitted that there was a delay in conversion of some of the motor dealers to MISPs and those were paid as per previous commitments.

3.2.1.2 It is further submitted by the insurer that the total payments made to dealers post implementation of MISPG was Rs.3.94 Cr. Rs.3.83 Cr were paid for services received before November, 2017 and Rs.10.62 Lakhs were paid for the services availed from the dealers post October, 2017.

3.2.2 Payments made under the advertisement head:

- 3.2.2.1 The insurer has submitted that payments made to M/S Honda Motorcycle & Scooter India Pvt. Ltd. and M/S Raipur Automobile Dealers Association were for the sponsorship of business promotion activities and advertisement expenses. These entities are not motor dealer / MISP.
- 3.2.2.2 The insurer further submitted that Rs.20 lakh was paid for sponsorship at Auto Expo which was organized at Indo Expo Greater Noida from 07th February, 2018 to 14th February, 2018, while Rs.10 lakh was paid for sponsorship of Honda one make race 2017.
- 3.2.2.3 Further, Rs.21 lakh was paid for sponsoring one of the major events organized by Dealers Association of Raipur.
- 3.2.2.4 Payments made to the parties other than above amounting to Rs.19 Lakhs, are cases under old arrangements made prior to 01st November, 2017 against which payments were released in the subsequent months.

3.3 Decision on charge no.2

3.3.1 Payments made in the name of 'data processing charges' and 'other support functions':

- 3.3.1.1 On examining the invoices submitted by the insurer, it was observed that, in more than 100 invoices, payments have been made to the motor dealers in the name of 'data processing charges' and 'other support functions', for the services availed post November, 2017 till 31st March, 2018. The motor dealers mentioned in the invoices are found to be MISPs which are either sponsored by the insurer or other insurance company/insurance intermediary.
- 3.3.1.2 The nature of such payments is other than the distribution fees.
- 3.3.1.3 The insurer has not submitted any documentary evidence in support of their submission that the payments were made for the said services availed before November, 2017.

3.3.2 Payments made under the advertisement head:

- 3.3.2.1 The insurer's submissions with regard to payment of Rs. 51 lakh is taken note of and also after examining the documentary evidence submitted in this regard, charge is not pressed.

3.3.2.2 The insurer has replied that payment of Rs.19.14 Lakhs is a case of old arrangement made prior to 01st November, 2017 for which payments were released in the subsequent months, though no documentary evidence has been produced.

3.3.3 It may be appreciated that the objective of MISP Guidelines is to recognize the role of motor dealers in distributing and servicing motor insurance policies so as to effectively monitor dealers' activities connected to insurance.

3.3.4 More importantly, the guidelines are brought out to check undesirable practices in the market like payouts to motor dealers made by insurers at the expense of policyholders under different heads of management expenses.

3.3.5 Para 15 (5) of MISP Guidelines clearly stipulates the maximum distribution fees payable to MISPs and specifically mentions that neither the insurer shall pay directly or indirectly to the MISP other payments including the advertising expenses nor the MISP shall receive such payments from insurers.

3.3.6 By making payments which are other than the distribution fee, the insurer is in violation of Guidelines 15 (5) (d) of MISPG. Considering the fact that this violation has taken place with regard to payment of Rs.10.62 lakh in one category and possibly for Rs.19.14 lakh in another category, the Authority, in exercise of the powers vested under Section 102(b) of the Insurance Act, 1938 imposes a penalty of Rs. **5 lakh only**. Further, the insurer is directed to ensure in future that any engagement with automotive dealers is strictly in compliance with MISP Guidelines.

4. Summary of Decisions:

Charge No.	Violation of Provisions	Decision
1	Violation of Guideline 9 (d) of MISPG and Section 14 (2) (h) of IRDA Act, 1999 – Non-submission of information/data/documents sought by the Authority.	Advisory.
2	Guideline 15 (5) (d) of MISPG – Indirect payments.	Rs. 5 lakh penalty.

5. The penalty amount of **Rs. 5 lakh** (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.
6. **Further,**
 - 6.1 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.
 - 6.2 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: 22nd April, 2021

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