

ORDER of Insurance Regulatory and Development Authority of India under Section 102 of the Insurance Act, 1938 read with Section 14 of the IRDA Act, 1999 and Guidelines on Motor Insurance Service Provider dt 31.8.2017 and subsequent circulars.

In the matter of M/s Toyota Tsusho Insurance Broker Pvt Ltd.

A. Background

1. The Insurance Regulatory and Development Authority of India (hereinafter referred to as "the Authority") issued Motor Insurance Service Provider guidelines (hereinafter referred to as MISP Guidelines) ref no. IRDA/ INT/ GDL/ MISP/ 202/ 08/ 2017 dated 31st August, 2017 after extensive consultations with the industry stakeholders. The objective of these guidelines was to recognise the role of automotive dealer in distributing and servicing motor insurance policies to have regulatory oversight over their activities connected to insurance. These guidelines were to come into force on 1st November, 2017. In the meantime, the Authority received requests for clarifications, extension of time, etc. The Authority vide its circular dated 1st November, 2017 clarified on various issues raised including one on creating a panel of insurance companies for selling motor insurance policies. The Authority vide another circular dated 1st November, 2017 informed the insurers and insurance intermediaries the launch of the MISP portal housed in IIB. The Authority in its communication of 17th October, 2017 advised all insurer and insurance intermediaries to follow the guidelines both in letter and spirit with regard to payment and receipt of fees, charges, by whatever name called.
2. Further clarification was issued by the Authority vide its circular dated 11th January, 2018 on creation of panel of insurers by insurance intermediary or MISP. The Authority categorically clarified that neither the insurance broker nor the MISP can create such a panel of insurers for selling motor insurance policies. It was also categorically stated in the same circular that no MISP or the insurance intermediary can enter into an agreement with an OEM which has an influence or bearing on the sale of motor insurance policies.
3. In the meantime, the Authority received complaints from policyholders against some of the MISP sponsored by insurers and insurance intermediaries are doing the following:
 - a) forcing motor customers to buy motor insurance policies of the insurers who are on their panel.
 - b) having uniform premium rates of different insurers for same motor vehicle
 - c) discriminating between insurance policyholder who has bought motor insurance from that motor dealer as against who has not bought from them

4. Some General Insurance Agents Association also complained to the Authority of the apparent conflict of interest in the role of MISP in selling insurance policies and servicing & repairing motor vehicles under the insurance policies sold by it, high claims ratio under the MISP channel, extra payments made to MISP by insurers, disparity of treatment to agents, etc.
5. The Authority also received complaints from insurers that insurance intermediaries have created panel of insurers which is in violation Guidelines on Motor Insurance Service Providers.

B. Off-site inspection of Toyota Tsusho Insurance Broker India Pvt Ltd (TTIBIL) by the Authority to check compliance of MISP Guidelines

6. Since one year has elapsed from the issuance of the MISP Guidelines, it was decided to call for information from select insurance intermediaries who are mainly involved in selling and servicing motor insurance policies through the motor dealers. Accordingly, the Authority's vide letter ref no. IRDAI/ MISP/ UT-Brokers/ Aug 2018 dated 31st August, 2018 asked Toyota Tsusho Insurance Broker India Pvt Ltd (TTIBIL) to furnish the following information:
 - a. Premium rates insurer-wise for different categories of vehicle insurance sold through MISP
 - b. Name of insurers empanelled by the insurance intermediary as on 31.7.2017 and 31.8.2018
 - c. Affidavit duly notarised by the PO confirming compliance of the following:
 1. Full compliance of MISP guidelines.
 2. Insurance programme implemented by the insurance intermediary is not linked to automobile sales by MISP either directly or indirectly
 3. OEM does not set targets or offer incentives to MISP in meeting sales targets.
7. TTIBIL vide letter dated 05.09.2018 furnished the above information and also submitted a duly notarised affidavit confirming compliance of the MISP guidelines.
8. Based on the submission made, the Authority sought explanation on non-compliance of clause 5(f) (panel of insurers)/ clause 10 & 11 (code of conduct - same premium rate for different insurers) vide letter dated 25th September, 2018. Further methodology of calculating discounts, process flow chart with regard to pre-sales including issuance of insurance policies and post sales servicing and sample copies of motor insurance policies were sought. In addition, TTIBIL was directed to share copy of the guidelines, circulars and correspondence exchanged on MISP with the Chairman of the Board of OEM (Toyota Kirloskar Motor Pvt Limited).
9. A reminder letter dated 18th October, 2018 was sent to expedite the submission of the necessary information. TTIBIL furnished the above information vide letter dated 22nd October, 2018. As regards sharing the information with the Chairman of the Board of OEM, TTIBIL submitted that it had sent a letter to the Chairman of the Board of Directors of Toyota Motor Pvt Ltd and Yamaha Motor India Sales Pvt Ltd and both the organizations have acknowledged receipt of the same.



10. On examining the submissions made by TTIBIL vis-à-vis the information/ clarification sought, it is observed that TTIBIL had not complied with the applicable provisions of the Authority's Regulations/ guidelines/ circulars. The Authority issued a Show Cause Notice to TTIBIL vide its letter dated 9th July, 2019 laying out the charges for the violation of the MISP guidelines and the IRDAI (Insurance Brokers) Regulations, 2018. TTIBIL submitted its response vide letter dated 24th July, 2019 and sought a personal hearing.
11. In view of the request of TTIBIL, a personal hearing on the SCN was granted by Member (Distribution). The personal hearing was held on 17th September, 2019 in the office of the Authority in Hyderabad. The following officials were present during personal hearing:

On behalf of the Authority:

- Shri Sujay Banarji – Member (Distribution)
Shri Randip Singh Jagpal –CGM (Intermediary)
Shri K. Srinivas – AGM (Brokers)
Shri Indradeep Sah – Assistant Manager (Brokers)
Shri Manoranjan Prusti – Assistant (Brokers)

On behalf of Toyota Tsusho Insurance Broker India Pvt Ltd:

- Shri Vijay Kumar Govada – Principal Officer
Shri Vinay Kumar – Compliance Officer
Shri M. M. Siddique – Consultant

12. Based on the charges levied against TTIBIL in the SCN, response of TTIBIL in its replies dated 5th September, 2018, 22nd October, 2018 and 24th July, 2019, the submissions made by TTIBIL during personal hearing on 17th September 2019, the decision of the Authority with respect to each of the charges is as follows:

I. Charge 1–

A. - Violation of clause 5 (f) of the MISP guidelines and subsequent clarifications dated 1st November, 2017 and 11th January, 2018 issued by the Authority

- i) The Authority was informed by some general insurers stating that they are willing to enter into a service level agreement with TTIBIL based on transparent and objective criteria. However, despite the insurance companies having made requests to TTIBIL for empanelling them, TTIBIL has neither responded nor empanelled them for selling motor insurance policies through their MISP's. TTIBIL has therefore violated clause 5(f) of the MISP guidelines and subsequent clarifications dated 1st November, 2017 and 11th January, 2018 which states that that neither the insurance broker nor the MISP can create a panel of insurer for selling motor insurance policies.

B. Submission of TTIBIL:

- i) TTIBIL in its reply letter dated 5th September, 2018 to the Authority has enclosed an affidavit duly notarised stating that the MISP guidelines are being complied with in full. It has furnished names of 7 general insurers who are on its panel and sell motor insurance policies as against a total of 25 general insurers doing motor insurance business.
- ii) TTIBIL in its reply dated 22.10.2018 stated that there is discordance in clause 5(f) which permits the involvement of different number of insurers depending upon sponsoring insurance intermediary. If a broker is the sponsor, the MISP has to deal with all registered insurers. If corporate agent is the sponsor, then insurers are restricted to 3. If a MISP opts for dealing with an insurance company, it can do with just one or two as there is no compulsion to tie-up with all. The MISP functions under the supervision and guidance of established brokers. The Broker Regulations cast a duty on the brokers to carry out due diligence on the operations and service deliveries of the insurance companies. The 2 clauses in their letter and spirit require brokers to carry out due diligence and this by necessary implication means that some selection has to be done whilst ensuring that customers have multiple insurers to choose from. The company has carried out a transparent and objective assessment of the capabilities of insurance companies to meet the service deliveries on a pan India basis for the motor insurance programme. According to TTIBIL the customer has the ultimate choice to opt from insurance from any channel/ insurer of his choice. Around 3,16,000 Toyota car owners out of 10,00,000 Toyota cars sold have taken insurance through their retail car insurance. Similarly, out of 35,00,000 plus Yamaha vehicles around 3,90,000 Yamaha owners have taken insurance through their programme. TTIBIL has therefore requested the Authority to revisit the MISP Guidelines.
- iii) TTIBIL in its reply letter dated 24th July, 2019 to the Authority has submitted the following:
 - a) reiterated their reply given in their letter of 22nd October, 2018.
 - b) submitted that the reply contained in their letter of 22nd October, 2018 is a fair interpretation of the Regulations and MISP Guidelines and has been acted upon by them in good faith. They have sought a favourable ruling on this issue.
 - c) submitted that they are progressively evaluating and adding insurance companies and going forward will deal with all insurance companies who approach them.
- iv) During the personal hearing, TTIBIL reiterated the above points. In addition, TTIBIL submitted the following:
 - a) TTIBIL has never limited the choice to customers. It has taken the insurance companies on board based on the claims record and grievance redressal mechanism based on the public disclosures, stipulated by the Authority.



- b) Before MISP guidelines, TTIBIL had five insurers on board and after the issuance of the guidelines, it has taken two more insurers on board and discussions with one insurer is underway. TTIBIL submitted that the empanelment of insurers is also done based on their and dealers presence at different geographical locations.
- c) TTIBIL submitted that it is difficult to empanel all insurers. According to TTIBIL some insurers have restriction to do business in some geographical locations across the country. TTIBIL also stated that some of the insurers are not meeting the service levels desired by them such as live streaming of surveying, etc.

C. Observations on TTIBIL reply and on the submissions made during personal hearing

- i) TTIBIL has accepted that it has 7 insurers on board and are in the process of tying up with more. It is therefore evident that TTIBIL has created a panel of insurers which is a violation of the MISP Guidelines. Further TTIBIL has not disclosed to all the insurers the criteria for selection of insurers. There is no transparency and objectivity in creating the panel of 7 general insurers. TTIBIL was not able to establish that there was an objective and transparent criteria for selecting the 7 insurers only.
- ii) Member (Distribution) during the personal hearing made the following observations:
 - a) why TTIBIL is restricting themselves as OEM broker, by creating a panel of insurers for motor insurance under MISP, when they do not have a panel for other lines of business.
 - b) why all the insurers have not been taken on board and why TTIBIL does not have an open architecture and allow all insurers to participate.
 - c) if service levels of insurers are not satisfactory then TTIBIL has a choice to restrict the business with them until they improve their service levels.
 - d) TTIBIL should bring to the notice of the Authority, in case some insurers are restricting business based on the geographical locations.

D. Decision of the Authority

- i) The Authority examined the charges levied against TTIBIL in the Show Cause Notice issued to it. The Authority also perused the submission made by TTIBIL. It also took note of the submission furnished during the personal hearing.
- ii) After taking into consideration all the facts placed before it, the Authority is of the view that:
 - i) TTIBIL has created a panel of 7 general insurers for "Toyota" vehicles and "Yamaha" vehicles out of a total of 25 general insurers depending upon the make and model of Toyota and Yamaha.

- ii) Principal Officer of TTIBIL submitted an affidavit that the MISP Guidelines are being complied with in full, which is contrary and wrong to the facts presented above.
- iii) Guideline 5(f) of the MISP Guidelines and further clarification circulars issued by the Authority stipulates that if an insurance intermediary appoints the MISP, then it shall work for the number of insurers as allowed under the respective regulations governing the intermediary. Therefore, if a broker appoints a MISP, then the MISP shall work for all insurers, as the broker is allowed to work with all insurers.
- iv) There was no objective and transparent criteria wherein the TTIBIL was able to establish on which they have entered into service level agreements with only 7 general insurers for selling motor insurance policies.
- v) TTIBIL being an insurance Broker shall have to enter into service level agreement with all the general insurers for providing better service to the policy holder. The TTIBIL was not able to establish the objective and transparent criteria for entering into services level agreement with only 7 General insurers instead of all general insurers which as a brokers they ought to have, and therefore is in violation of the MISP guidelines. By only providing the services of 7 insurers for selling motor insurance policies the TTIBIL has created a panel of selected insurers without any objective criteria. The creation of a panel of insurers by TTIBIL will lead to undesirable market practices wherein the policyholders right to choose the insurer of his preference for the best rates available in the market is being adversely affected.
- vi) The above submissions by TTIBIL prove that it has created a panel of insurers and has therefore violated clause 5 (f) of the MISP guidelines dated 31.8.2017 and subsequent clarifications dated 1st November, 2017 and 11th January, 2018.
- vii) In exercise of the powers vested in the Authority as per the provisions of the section 102(b) of the Insurance Act, 1938 read with Clause 15(15)(d) of the MISP Guidelines dated 31.08.2017, the Authority hereby imposes a penalty of Rs. 1 crore (Rupees One crore) for the violation period exceeding 100 days which is from the date of implementation of the MISP Guidelines i.e. 1st November, 2017 till date.

II. Charge 2:

A. Violation of

- i) Regulation 8(2)(o) of IRDAI (Insurance Brokers) Regulations, 2018;
- ii) Point No. 1, 2(a), 2(b), 3(e) under Schedule I – Form H dealing with Code of Conduct under Regulation 30 & Regulation 8(2) of IRDAI (Insurance Broker) Regulations, 2018.
- iii) Guideline 5(f), 6(a), 11(b), 11(c), 11(d), 11(e), 11(k), 11(l) & 11(m) of the MISP guidelines dated 31.08.2017

a) The Authority is in receipt of Toyota Kirloskar Motors Pvt Ltd (TKM) - Dealer Expectation Standards India (DESI) 2019 which is the dealer evaluation programme that covers multiple facets of business and maximizes dealer efforts in achieving highest level of performance across various parameters. The program has an elaborate methodology of rewarding the dealer for issuing and retaining insurance policies through him.

By having insurance penetration as one of the sales performance parameters and linking it to rewards, TTIBIL has contradicted its assertion in the affidavit and also violated IRDA Circular no. IRDA/ INT/ MISP/ 5/ 01/ 2018 dated 11th January, 2018 which states that neither the MISP nor the insurance intermediary can enter into an agreement with the OEM which has an influence or bearing on the sale of motor insurance policy.

By having allocation of marks for insurance penetration in the TKM's DESI 2019 – Dealer Expectation Standards India, makes MISP force customers to buy motor insurance policies through them. The MISP therefore has not conducted its dealings with utmost good faith and integrity and not acted with care and diligence.

As the MISP sponsored by TTIBIL offers motor insurance policies of only those insurers who are on the panel, it restricts the choice to the customer and forces the prospect/ policyholder to necessarily buy motor insurance policy through the broking company. The MISP therefore has not discharged its functions in the interest of the clients or policyholders and indulged in manipulating the insurance business.

By imposing the above restrictions, the customer/ prospect is denied his rights and options to buy or renew his motor insurance policy from any insurance intermediary and curtails the choice of prospect/ policyholder. The MISP actions are therefore prejudicial to the interest of the policyholder and leads to unfair trade practices

TTIBIL being the sponsor of the MISP, is responsible for all omissions and commissions of MISP. It has therefore violated the following provisions: i) inducing the customer and indulging in unfair business practice; ii) forcing the MISP to make customers buy motor insurance policies from them and restricts choice of policyholder; iii) prejudicial to the interest of the policyholder and leading to unfair trade practices.

B. Submission of TTIBIL:

- i) TTIBIL in its reply letter dated 10.9.2018 to the Authority has enclosed an affidavit duly notarised that the OEM's do not set targets or offer incentives to TTIBIL or to the MISP's in meeting the sales target.
- ii) TTIBIL in its reply letter dated 24.07.2019 to the Authority has submitted the following:

- a) Dealer Expectation Standards India (DESI) 2019 is not an agreement between Toyota Kirloskar Motors Pvt Ltd (TKM) and MISP but a dealer evaluation system or in other words a performance evaluation manual brought out by TKM.
- b) Insurance sales is a very small part of the activities and no way linked to MISP Program.
- c) There is neither coercion and undue influence asserted on the customers nor lack of options or limited options are provided to the customers for buying motor insurance policies.
- d) TKM and TTIBIL are two separate individual corporate entities and TTIBIL has always carried out its business at an arm's length from the OEM and are not influenced by them in the conduct of its business.
- e) TTIBIL has neither coerced nor manipulated its customers in any manner nor indulged in any activity which is prejudicial to policyholders
- f) During the personal hearing TTIBIL submitted that DESI is an evaluation program which is a common practice internationally. TTIBIL also submitted that out of the 2000 points in DESI program around 120 points relate to insurance.
- g) TTIBIL also submitted that out of around 10 lakhs vehicles only 3 lakhs were done through the MISP sponsored by the broker. TTIBIL further added that most of the OEMs are internationally reputed entities and they expect the dealers to excel in all services including insurance which leads to customer satisfaction. TTIBIL submitted that it is a mechanism under which they are providing all services under one roof like service to vehicle, spare parts, finance, renewal of insurance policies etc. Toyota group is following the Dealer Evaluation Standard, which is global standard. By this reward program, the dealers are encouraged to give best services to their customers.

C. Observations on TTIBIL reply and on the submissions made during personal hearing

- i) By stating that DESI 2019 is not an agreement between TKM and MISP but a dealer acceptance programme, TTIBIL has admitted to the program in which the MISP is rewarded based on the number of new and renewal policies sold to the customer. This condition is a violation of the MISP Guidelines.
- ii) By accepting that insurance sales is a small part of DESI, 2019, TTIBIL has admitted to violation of the MISP Guidelines and the circular which does not allow OEM to set targets or offer incentives to MISP in meeting sales targets of insurance policies. By doing so the MISP and consequently TTIBIL, being the sponsor of the MISP, has violated the MISP guidelines.

- iii) Even though TTIBIL has submitted that there is no coercion or undue influence on the customers, the fact that dealers evaluation and allocation of marks are linked to sale of insurance policies, makes the dealer exercise undue influence on customers.

D. Decision of the Authority

- i) The Authority examined the charges levied against TTIBIL in the Show Cause Notice issued to it. The Authority also perused the submission made by TTIBIL. It also took note of the submission furnished during the personal hearing.
- ii) After taking into consideration all the facts placed before it, the Authority is of the view that:
- a) The MISP entered into an agreement with the Toyota Kirloskar Motors Pvt Ltd (TKM) (OEM) through the Dealer Expectation Standards India (DESI) 2019 which is a dealer evaluation programme and gives the methodology of rewarding dealer for retaining insurance policies issued through him. The marks under the programme are linked to the rewards/ incentives which the dealer gets from the OEM. By rewarding dealer for retaining insurance policies issued through him, the PO of TTIBIL has contradicted his affirmations in the notarised affidavit and also violated MISP Guidelines and circular no. IRDA/ INT/ MISP/ 5/ 01/ 2018 dated 11th January, 2018.
- b) By having allocation of marks for insurance penetration in the Dealer Expectation Standards India (DESI) 2019 makes the MISP force customers/ prospects buy motor insurance policies from them. TTIBIL being the sponsor of the MISP and being responsible for all omissions and commissions of MISP has therefore violated the following provisions:
- i) 11(b) - force the prospect / policyholder to necessarily buy motor insurance policy through a particular insurance intermediary
- ii) 11(c) - deny the prospect his rights and options to seek motor insurance policy or renewal of motor insurance policy from any insurance intermediary
- iii) 11(e) - direct or indirect imposition of risk selection by insurers or curtailment of choice of the prospect/ policyholder
- c) TTIBIL has neither conducted its dealings with utmost good faith and integrity nor acted with care and diligence. TTIBIL has therefore violated Regulation 8(2)(o), clause 1, 2(a),2(b),3(e), 5(h) of Schedule I - Form H - Regulations 30 - Code of Conduct - Insurance Broker of IRDAI (Insurance Brokers) Regulations, 2018.
- d) By the above actions, the MISP sponsored by TTIBIL has violated the following guidelines:
- (i) 11(k) - conduct its business in a manner prejudicial to the interest of the policyholder.

(ii) 11(l) - indulge in manipulating the insurance business.

(iii) 11(m) - indulge in unfair trade practices

Since under Guideline 6(a) TTIBIL as sponsoring entity is responsible for all acts of omission and commission of MISP, TTIBIL has violated guidelines 11(b), 11(c), 11(e), 11(k), 11(l) & 11(m) read with 6(a) of the MISP Guidelines dated 31.8.2017.

e) In exercise of the powers vested in the Authority as per the provisions of the section 102(b) of the Insurance Act, 1938 read with Clause 15(15)(d) of the MISP Guidelines dated 31.08.2017, the Authority hereby imposes a penalty of Rs. 1 crore (Rupees one crore) for the violation period exceeding 100 days which is from the date of implementation of the MISP Guidelines i.e. 1st November, 2018 till date.

III. Charge 3:

A. Violation of

i. Regulation 4 and Schedule I - Form A of IRDAI (Insurance Broker) Regulations, 2018

ii. Point No. 1, 2(a), 2(b) and 3(e) under Schedule I – Form H dealing with Code of Conduct under Regulation 30 & Regulation 8(2) of IRDAI (Insurance Broker) Regulations, 2018

iii. Guideline 5(f), 6(a), 11(b), 11(c), 11(d), 11(e), 11(k), 11(l) & 11(m) of the MISP guidelines dated 31.08.2017

a) TTIBIL vide letter dated 5.9.2018 submitted a premium chart on the basis of which premiums are charged to the customers by insurers. It is observed that the premium being charged to the customer of different insurers is the same. By having one rate by one insurer, TTIBIL has violated Point 1 – Functions of Direct Insurance Broker - Regulation 4 of IRDAI (Insurance Broker) Regulations, 2018 which states that it is the responsibility of the broker to get best terms, benefits, coverages to the customer.

b) By not explaining to customer the degree of choice that products offer, comparison in terms of price, cover or service, TTIBIL has violated Pt No. 3 - conduct in matters relating to client's relationship - Schedule I – Form H - Code of Conduct - Reg 30 & 8(2) of IRDAI (Insurance Broker) Regulations, 2018.

c) By not getting the best terms, benefits, coverages for the customer TTIBIL did not act with utmost good faith and integrity or with care and diligence. Therefore, TTIBIL violated Pt No. 2 - conduct in matters relating to client's relationship - Schedule I – Form H - Code of Conduct - Reg 30 & 8(2) of IRDAI (Insurance Broker) Regulations, 2018 read with Section 42D (5)(g) and 42D (6) of the Insurance Act, 1938.

B. Submission of TTIBIL:



- i) TTIBIL in its reply dated 22.10.2018 have denied any role in fixing the premium being charged and hold insurers responsible for determining the premium to be charged to the customer.
 - a) According to TTIBIL, the rates and terms are the sole prerogative of insurance companies and are fixed by them. There is broad consensus amongst insurers on the program that there should not be unhealthy competition. This has resulted in range bound and converging premiums.
 - b) As per TTIBIL, it is not in a position to comment on the methodology followed by insurance companies. However TTIBIL satisfied themselves that all the insurers participating in program are quoting rates which are near the lower end of the file and use range of rates filed with the Authority.
 - c) According to TTIBIL new car insurance is a pre-underwritten product. Since these are standard products TTIBIL teams are well equipped to explain terms and conditions to the customers and allow them the choice of insurance companies.
 - d) TTIBIL in its reply letter dated 24.07.2019 to the Authority has reiterated its submissions furnished in its letter of 22.10.2018.
 - a) During the personal hearing TTIBIL reiterated the above points.

C. Observations on TTIBIL reply and on the submissions made during personal hearing

- i. On TTIBIL's submission that the rates and terms are the sole prerogative of insurance companies and are fixed by them is noted. However, each insurance company files the rates with the Authority. By informing the policyholder same rates uniformly across all the empanelled insurers reveals undue intervention by the broker in fixing the rates against the approved rates. The submission of TTIBIL that motor insurance policy is a standard insurance policy whose wordings are tariffed. As the terms/ wordings are tariffed, the premium quoted by insurers is same is not acceptable. There is no explicit and objective parameter to ascertain service. The broker being a representative of the customer, has a responsibility to ensure that he gets the best terms, benefits, coverages and render proper advice on appropriate insurance cover and terms. TTIBIL has not ensured that the customer gets the lowest premium rate for same terms, benefits, services. Therefore TTIBIL has not performed its functions as laid down in Point 1 - Functions of a direct broker given in Schedule I Form A under Regulation 4 of IRDAI (Insurance Brokers) Regulations, 2018.
- ii. TTIBIL is required to conduct dealing with clients with utmost good faith and integrity at all times, act with care and diligence. By not getting the best terms, benefits, coverages for the customer TTIBIL did not conduct itself properly and violated conduct in matters

relating to client's relationship under Schedule I - Form H dealing with Code of Conduct read with Section 42D (5)(g) and 42D (6) of the Insurance Act, 1938.

- iii. TTIBIL as per IRDAI (Insurance Broker) Regulations, 2018 is required to explain to the customer the degree of choice that products are on offer, provide comparison in terms of price, cover or service. TTIBIL did not provide the comparison by offering products of different insurers. Therefore TTIBIL violated the conduct in matters relating to clients relationship under Schedule I - Form H dealing with Code of Conduct under Regulation 30 & Regulation 8(2) of IRDAI (Insurance Broker) Regulations, 2018.

D. Decision of the Authority

- i) The Authority examined the charges levied against TTIBIL in the Show Cause Notice issued to it. The Authority also perused the submission made by TTIBIL. It also took note of the submission furnished during the personal hearing.
- ii) After taking into consideration all the facts placed before it, the Authority is of the view that:
 - a) TTIBIL being a representative of the customer, has a responsibility to ensure that he gets the best terms, benefits, coverages and render proper advice on appropriate insurance cover and terms as per Point 1 – Functions of a direct broker given in Schedule- I, Form A under Regulation 4 of IRDAI (Insurance Broker) Regulations, 2018. By having a uniform rate across all insurers, TTIBIL has not performed the functions of the direct broker and violated Regulation 4 of IRDAI (Insurance Broker) Regulations, 2018.
 - b) Further under Point No. 3 in conduct in matters relating to sales practice under Schedule I – Form H dealing with Code of Conduct under Regulation 30 & Regulation 8(2) of IRDAI (Insurance Broker) Regulations, 2018 TTIBIL is required to explain to the customer the degree of choice that products are on offer, provide comparison in terms of price, cover or service. By not explaining to the customer the degree of choice that products are on offer, providing the customer a comparison in terms of price, cover or service TTIBIL has violated the conduct in matters relating to clients relationship under Schedule I – Form H dealing with Code of Conduct under Regulation 30 & Regulation 8(2) of IRDAI (Insurance Broker) Regulations, 2018.
 - c) In addition, under Point No. 2 in conduct in matters relating to clients relationship under Schedule I – Form H dealing with Code of Conduct under Regulation 30 & Regulation 8(2) of IRDAI (Insurance Broker) Regulations, 2018 TTIBIL is required to conduct its dealing with clients with utmost good faith and integrity at all times, act with care and diligence. By not getting the best terms, benefits, coverages for the customer TTIBIL has not conducted its dealing with clients with utmost good faith and integrity, nor has it acted with care and diligence thereby violating the conduct in matters relating to



clients relationship under Schedule I – Form H dealing with Code of Conduct under Regulation 30 & Regulation 8(2) of IRDAI (Insurance Broker) Regulations, 2018 read with Section 42D (5)(g) and 42D (6) of the Insurance Act, 1938

- d) All the above submissions by TTIBIL establishes that TTIBIL has violated i) Regulation 4 of IRDAI (Insurance Broker) Regulations, 2018; ii) Point No. 2 of conduct in matters relating to clients relationship under Schedule I – Form H dealing with Code of Conduct under Regulation 30 & Regulation 8(2) of IRDAI (Insurance Broker) Regulations, 2018; and iii) Point No. 3 of conduct in matters relating to clients relationship under Schedule I – Form H dealing with Code of Conduct under Regulation 30 & Regulation 8(2) of IRDAI (Insurance Broker) Regulations, 2018.
- e) By having same premiums, discounts and add-on pricing the MISP sponsored violated the following guidelines: a) 11(d) - directly or indirectly control or interfere in determination of premium of policies; 11(k) – conduct its business in a manner prejudicial to the interest of the policyholder; 11(l) – indulge in manipulating the insurance business; 11(m) – indulge in unfair trade practices
- f) In exercise of the powers vested in the Authority as per the provisions of the section 102(b) of the Insurance Act, 1938 read with Clause 15(15)(d) of the MISP Guidelines dated 31.08.2017, the Authority hereby imposes a penalty of Rs. 1 crore (Rupees one crore) for the violation period exceeding 100 days, which is from the date of implementation of the MISP Guidelines i.e. 1st November, 2017 till date.

C. Conclusion

- i. TTIBIL is a significant broker in the selling and distribution of motor insurance in the country. It is part of the Toyota Kirloskar Motor Pvt Ltd having strong presence in motor vehicle segment. Therefore, as one of the top brokers in the motor insurance broking segment, TTIBIL is seen as an ideal for other insurance brokers. In light of such expectations, TTIBIL was expected to act diligently and with utmost care and responsibility giving no room for error. Unfortunately, TTIBIL failed in complying with the MISP Guidelines which had been created to protect the interest of the policyholders and other stakeholders. This is evident from the penalties imposed for the violations of various provisions of the MISP Guidelines. In order to ensure compliance with the MISP Guidelines and to improve governance in TTIBIL, the Authority directs the TTIBIL to undertake the following changes:
 - a) dismantle panel of insurers and empanel all insurers on platform, have full integration with insurers computer systems, ensure premiums quoted to customers come directly from insurer systems without any intervention by the broker and report compliance within 2 months. In case any insurer does not wish to be part of the panel, the CEO of the general insurance company shall confirm the same in writing to the broker.



- b) redesign the current system of seeking customer consent for purchasing the motor insurance policy in such a manner that the customer exercise choice of selecting the insurer through an OTP based system at the time of issuance of a new motor insurance policy and its renewal. The broker company shall complete the task in 6 months and report compliance.
- c) submit a quarterly audit report from DISA/ CISA certified auditor that the electronic platform / portal complies with the requirements of the MISP guidelines and in no way interferes or places restrictions in the premium to be charged by insurers or in any way restricts / influences the choice of the customer
- d) ensure compliance of Guideline 5(f) of the MISP guidelines and circular dated 1st November, 2017 and 11th January, 2018 and report compliance.
- ii. The Authority takes serious note that the affidavit submitted by the Principal Officer of TTIBIL is contrary to the facts. Considering the seriousness of the issue, the Authority under Guidelines 15(d)(1) of MISP Guidelines directs that TTIBIL shall not release performance incentives to the Principal Officer for one year from the date of this order. TTIBIL shall submit compliance of this direction to the Authority.
- iii. Based on above decisions in charge no. 1, 2 & 3 M/s. TTIBIL Insurance Brokers Pvt Ltd., is hereby directed to pay a penalty of Rs.3,00,00,000/- (Rupees Three Crores only)
- iv. The penalty of Rs 3,00,00,000/- (Rs. Three Crores) shall be remitted by TTIBIL through NEFT / RTGS (details of which will be communicated separately) within a period of 15 days from the date of receipt of this order. An intimation of remittance by TTIBIL may be sent to Shri. Randip Singh Jagpal, Chief General Manager (Intermediaries), IRDAI, Sy. No. 115/1, Financial District, Nanakramguda, Hyderabad, 500032.
- v. If the Insurance Broker feels aggrieved by the above decision of the Authority, an appeal may be preferred to the Securities Appellate Tribunal as per Section 110 of the Insurance Act, 1938.

Place: Hyderabad

Date: January 8, 2020



(Sujay Banarji)

Member (Distribution)