



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

IRDA/INT/MISC/ORD/ 2 28/12/2019

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 Hero Insurance Broking India Pvt Ltd. (HIBIL)

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 and 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 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.

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4. The Authority also received complaints from insurers that insurance intermediaries have created panel of insurers which is in violation of Guidelines on Motor Insurance Service Providers.

B. Off-site inspection of Hero Insurance Broking India Pvt Ltd (HIBIL) by the Authority to check compliance of MISP Guidelines

5. 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 vide letter ref no. IRDAI/ MISP/ UT-Brokers/ Aug 2018 dated 31st August, 2018 asked Hero Insurance Broking India Pvt Ltd (HIBIL) 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 31.7.2018
 - 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.
6. HIBIL vide letter dated 04.09.2018 submitted that even though the company's insurance broking license no. 649 is dated 26.07.2018, it started business from 01.09.2018. HIBIL submitted that therefore no insurers were empanelled as on 31.07.2017 and 31.07.2018. HIBIL submitted a duly notarised affidavit confirming compliance of the MISP guidelines.
7. The Authority did not agree to HIBIL's submission that it was a newly registered insurance broking entity because it was earlier conducting insurance business as a corporate agent. The Authority therefore vide its letter dated 25th September, 2018 sought reply from HIBIL on the information sought in its letter of 31st August, 2018. HIBIL was also advised to furnish the current position to the queries raised. 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, HIBIL was directed to share copy of the guidelines, circulars and correspondence exchanged on MISP with the Chairman of the Board of OEM (Hero Motor Corp Limited). A reminder letter dated 18th October, 2018 was sent to HIBIL to expedite the submission of the necessary information.
8. HIBIL replied vide their letter dated 24.10.2018 furnishing the information. In that HIBIL submitted that it had empanelled 10 general insurers namely HDFC Ergo, ICICI Lombard, Bharti Axa, Go Digit, TATA-AIG, Kotak General, National Insurance, New India Assurance, Liberty General and Aditya Birla Health. In turn the Authority took up the matter with the 10 general insurers asking them to confirm whether they have been empanelled by HIBIL for soliciting motor insurance



business under the MISP guidelines. Of these only 4 general insurers namely ICICI Lombard, Bharti Axa, TATA-AIG and National Insurance confirmed that they are empanelled by HIBIL. HDFC Ergo, Go Digit, Liberty, New India and Kotak General denied being empanelled by HIBIL. Aditya Birla Health did not reply.

9. On examining the submissions made by HIBIL vis-à-vis the information/ clarification sought, it was observed that HIBIL had not complied with the applicable provisions of the Authority's Regulations/ guidelines/ circulars. The Authority issued a Show Cause Notice to HIBIL vide its letter dated 8th May, 2019 laying out the charges for the violation of the MISP guidelines and the IRDAI (Insurance Brokers) Regulations, 2018. HIBIL vide their letter dated 21st May, 2019 sought extension of time till 31st May, 2019. HIBIL submitted its response vide letter dated 4th June, 2019 and sought a personal hearing.
10. In view of the request of HIBIL, a personal hearing on the SCN was granted by Member (Distribution). The personal hearing was held on 3rd July, 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 Hero Insurance Broking India Pvt Ltd:

- Shri Purnendu Khanna (Director)
- Shri Alok Dixit (Principal Officer)

11. Based on the charges levied against HIBIL in the SCN, response of HIBIL in its replies dated 4th September, 2018, 24th October, 2018 and 4th June, 2019, the submissions made by HIBIL during personal hearing on 3rd July, 2019 and the reply dated 15th July, 2019 given by HIBIL as a follow-up of the personal hearing, the decision of the Authority with respect to each of the charges is as follows:

I. Charge 1–

A. Violation of clause 102 of the Insurance Act, 1938 and 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 HIBIL based on transparent and objective criteria.

However, despite the insurance companies having made requests to HIBIL for empanelling them, HIBIL have neither responded nor empanelled them for selling motor insurance policies through their MISPs.

- ii) The Authority noted that HIBIL in its reply of 24th October, 2018 furnished wrong information to the Authority by stating that 10 general insurers are empaneled as against only 4 general insurers.

B. Submission of HIBIL:

- i) HIBIL in its reply letter dated 4th September, 2018 to the Authority has enclosed an affidavit duly notarised stating that the MISP guidelines are being complied with in full. HIBIL in their letter of 24th October, 2018 have furnished names of 10 general insurers on its panel who sell motor insurance policies as against a total of 25 general insurers doing motor insurance business.
- ii) HIBIL in its reply letter dated 04.06.2019 to the Authority has submitted the following:
 - a) HIBIL was granted Certificate of Registration (CoR) on 26th July, 2018 and it started operations from 01.09.2018. Therefore, it did not have any insurers on its panel as on 31.07.2017 and 31.07.2018.
 - b) On receipt of CoR, HIBIL started the process of empaneling and empanelled 9 general insurers & 1 stand-alone health insurers capable of servicing customers & maintaining service standards. It asked these 10 general insurers to create a code in their system in anticipation of working with them. According to HIBIL, it informed IRDAI the names of 10 general insurers based on the understanding that creation of code means empanelling the insurers.
 - c) HIBIL has denied creating a panel of insurers. According to HIBIL, it currently is working with 4 general insurers and has sponsored 2,404 MISPs. It has issued no communication to MISPs to have any restriction on selection of insurers.
 - d) HIBIL's case is of migrating from corporate agency to insurance broking. According to HIBIL, it has created a structure to augment its policies and procedures. Further it conducts regular training for its MISPs.
 - e) According to HIBIL, adding new insurers involves discussions on parameters such as reputation of insurer, u/w practices, pan India presence, IT capabilities, claim related processes, grievance redressal mechanism and reach to MISP points.
 - f) According to HIBIL, making all insurers to offer motor insurance policies will make the software complex and heavy. Further according to HIBIL, the auto dealers have stated that they cannot work with all general insurers. HIBIL has also submitted that none of their MISPs are eligible to receive any fee other than what is permitted.



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- g) According to HIBIL motor insurance is a vanilla product not having many permutation and combination. HIBIL has stated that it is placing other than motor insurance business with 13 insurers.
 - h) HIBIL has denied submitting wrong information to the Authority. According to it, the information was submitted to Authority within the stipulated time.
 - i) HIBIL has stated that the Authority should take action against insurers for giving wrong information to Authority inspite of having HIBIL's code in their system.
 - j) HIBIL has denied violation of guidelines 5(f) of MISP Guidelines and clause 102 of Insurance Act, 1938
- iii) During the personal hearing, HIBIL reiterated the above points. In addition, HIBIL submitted the following:
- a) HIBIL got the certificate of registration to act as direct insurance broker on 26th July, 2018 and the empanelment with insurers takes time.
 - b) HIBIL stated that they wrongly interpreted the query and furnished information about insurers with whom they have created a broker code.
 - c) HIBIL has empaneled 4 insurers as of now and empanelment of 2 more insurers is under process. Further, HIBIL stated that some insurers have very limited presence in the country particularly in Tier II, III & IV cities/towns. Most of the MISPs sponsored by HIBIL have their presence in these areas and hence do not find it possible to have tie up with the insurers. HIBIL also submitted that the PSU general insurers are not responding to them for selling motor insurance policies through their MISPs.
 - d) HIBIL submitted that their customers are mostly located in the rural and semi-urban areas where the understanding of the insurance products is limited and the literacy rate is low. Therefore, giving more options with products of multiple insurers to such customers may lead to more confusion.

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

- i) Even though HIBIL was granted CoR on 26th July, 2018, HIBIL was earlier operating as a corporate agent and placing motor insurance business with the insurers and hence was fully conversant and aware of the requirements of MISP Guidelines.
- ii) It was observed that even though HIBIL has empanelled 9 general insures and 1 stand-alone health insurers, no justification was given by HIBIL to restrict the number of insurers to 9 and not allow other general insurers to sell motor insurance policies through HIBIL's sponsored MISPs thereby leading to violation of MISP guidelines.
- iii) HIBIL submitted that it had empanelled 10 general insurers. However, 5 out of the 10 general insurers, on being queried by the Authority, have denied that they are empanelled by HIBIL, which proves that HIBIL furnished wrong information to the Authority.

- iv) Further it was noted that motor insurance policies of only 4 general insurers are being distributed through HIBIL sponsored MISPs. Even now 5 general insurers are not empanelled by HIBIL leave alone the rest of the general insurers which is a violation of MISP Guidelines.
- v) Given the fact that HIBIL has created broking codes for 30 insurers demonstrates that it has the capability to tie-up with all insurers including selling motor insurance through MISPs, if it so desires and therefore become compliant to the MISP Guidelines.
- vi) It was noted that while the clarification was sought on MISP guidelines, HIBIL submitted details of non-MISP business which has no meaning.
- vii) HIBIL submission that making all insurers offer motor insurance policies, will make the software complex and heavy, is against policyholder interest. On the contrary this is the only way to ensure that the customer gets the best price and the interest of the policyholder is protected. It ensures that the ills associated with creation of panel are eliminated and the broker / MISP does not indulge in unfair trade practice nor forces the customer to buy the policy from the insurance intermediary. This approach does not curtail customer choice nor controls/ interferes in determination of premium and nor results in manipulation of insurance business.
- viii) HIBIL submission that motor insurance is a vanilla product not having many permutation and combination goes to prove that the insurance intermediary and the MISP are not adding any value addition to the sale of motor insurance but only leveraging on their dealership to force the customer to buy a motor insurance policy of the empanelled general insurer which is restrictive and against policyholder interest.
- ix) It was observed that HIBIL has given a wrong statement that it has empanelled 10 general insurers for selling motor insurance through MISP because allotting a code to insurer does not mean empanelling the insurer.
- x) Member (Distribution) during the personal hearing advised HIBIL to furnish the following details and undertakings:
 - a) obtain confirmation from the general insurers where they expressed the inability to provide sales/ service of insurance products in Tier II, III & IV cities/towns.
 - b) write to CMDs of all PSU general insurers that HIBIL is ready to take them on board for selling motor insurance policies through MISPs and may also inform them that the copy of the letter is marked to the regulator for information.
 - c) prepare a road map on the way forward for empanelment of all general insurance companies and to demonstrate to the satisfaction of the Authority as to how the same can be delivered. The reply should be submitted before 15th July, 2019.
 - d) not obtaining options with products of multiple insurers leads to restriction of choice to the customers, which is not in the Policyholders' interest.

D. HIBIL reply to Member (Distribution)'s advice and observations thereon

- i) HIBIL submitted their response to Member (Distribution)'s observations vide their letter dated 15th July, 2019. The roadmap for business arrangement with general insurers under the MISP arrangement for motor insurance gives a brief introduction about HIBIL. It lays down the process map based on which a general insurer will be on-boarded to become part of the panel. According to HIBIL they will be able to add insurers only by June, 2020 at the earliest which is nearly after one year.
- ii) It is observed that HIBIL has not responded to Member (Distribution) observations given in ix) a), b) and d).

E. Observations on the proposed roadmap for business arrangement

- i) The observations on the proposed roadmap for business arrangement with general insurers under the MISP arrangement for motor insurance submitted by HIBIL are as under:
 - a) The proposed roadmap for on-boarding general insurers will take about a year. This is a violation of MISP guidelines as MISP Guidelines dated 31st August, 2019 and subsequent circulars dated 1st November, 2017 and 11th January, 2018 as the guidelines stated that the insurance intermediary shall not create a panel of insurers. HIBIL is in violation of the MISP guidelines and will continue to be in violation of the MISP Guidelines till June, 2020 by their own admission.
 - b) HIBIL has concluded by stating that it reserves the right to reject any or all proposals received in response to this document at any stage without assigning any reason whatsoever. This indicates that HIBIL can be in violation of the MISP Guidelines even after June, 2020.

F. Decision of the Authority

- i) The Authority examined the charges levied against HIBIL in the Show Cause Notice issued to it. The Authority also perused the submission made by HIBIL. It also took note of the submission furnished during the personal hearing. It also advised steps to HIBIL and examined HIBIL's response to the advisory.
- ii) After taking into consideration all the facts placed before it, the Authority is of the view that:
 - a) HIBIL admitted to creating a panel of 4 general insurers out of a total of 25 general insurers.
 - b) Principal Officer of HIBIL submitted an affidavit that the MISP Guidelines are being complied with in full which is contrary and wrong to the facts presented above.

- c) HIBIL submitted false information to the Authority that it has empanelled 10 general insurers for selling motor insurance policies through MISP when it had only 4 general insurers on its panel.
- d) Member (Distribution) during the personal hearing advised HIBIL to undertake steps to which HIBIL gave an unsatisfactory response or no response.
- e) Guideline 5(f) of the MISP Guidelines states 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.
- f) Authority vide circular dated 1st November, 2017 clarified on guideline 5(f) of the MISP Guidelines that an insurance intermediary based on an objective and transparent criteria can enter into service level agreements with general insurers for selling motor insurance policies.
- g) Authority circular of 11th January, 2018 reiterated that with the commission / remuneration levels for the insurance intermediaries and MISP being stipulated, the creation of a panel of insurers is restrictive, which can lead to undesirable market practices. Therefore, to remove misgivings in the minds of the stakeholders the Authority clarified that neither the insurance broker nor the MISP can create such a panel of insurer for selling motor insurance policies. However, the insurance companies should enter into service level agreements with insurance brokers/ MISPs based on transparent and objective criteria.
- h) The above submissions by HIBIL establishes that HIBIL by creating a panel of insurers has violated clause 5 (f) of the MISP guidelines dated 31.8.2017 and subsequent clarifications dated 1st November, 2017 and 11th January, 2018.
- i) 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 start of business operations of the broking company i.e. 01.09.2018.
- j) In addition, the Authority under the powers vested under Clause 15(15)(d) of the MISP Guidelines dated 31.08.2017 directs HIBIL to immediately empanel the 5 general insurers namely HDFC Ergo General Insurance Company Ltd, New India Assurance Company Ltd, Liberty General Insurance Company Ltd, Kotak Mahindra General Insurance Company Ltd and Go Digit General Insurance Company Ltd, whose name were submitted to the Authority in its letter dated 24th October, 2018 and report compliance within 30 days.



II. Charge 2:

A. Violation of

i) Guideline 11(b), 11(c), 11(d), 11(e) 11(l), 11(m) r/w 6(a), 12 & 13 of the MISIP guidelines dated 31.08.2017

a) The Authority is in receipt of Scheme called Hero 5 years OD Insurance Free: T&C for all 2W except HF series which has the objective to accelerate 2W retails in February, 2019 i.e. from 11th February, 2019 to 28th February, 2019. The details and other conditions are given in the brochure. The scheme gives the sharing of premium to be paid on behalf of the customer between Hero Motor Corp and the Dealer. The offer is facilitated through "Hero Insurance Broking India Pvt Ltd" only, where they shall provide a discount of 65% on the OD amount. In addition, all sales need to be tagged to the Hero Connect Campaign and many other conditions. Such a condition is in contradiction to the affidavit dated 7th September, 2018 submitted by HIBIL and also in violation of the IRDA Circular no. IRDA/ INT/ MISIP/ 5/ 01/ 2018 dated 11th January, 2018 which states that it is advised that no MISIP or the insurance intermediary can enter into an agreement with the OEM which has an influence or bearing on the sale of motor insurance policy.

B. Submission of HIBIL:

- i) HIBIL in its reply letter dated 10.9.2018 to the Authority has enclosed an affidavit duly notarised that the MISIP guidelines are being complied with in full.
- ii) HIBIL in its reply letter dated 04.06.2019 to the Authority has submitted the following:
 - a) offers of free insurance have been in the industry for many years. Moreover, it is a sales promotion initiative of the OEM and not HIBIL's.
 - b) figures to show that out of 3.52 lakh 2 wheelers sold by OEM, only 1.29 lakh insurance policies were sold under the (5+5) scheme that was advertised.
 - c) policyholders were not denied cashless claims.
 - d) cost of OD premium was reimbursed to customer.
 - e) there is no agreement between HIBIL and OEM. Therefore, the assertion in affidavit is correct.
 - f) MISIP plays dual role. It is an IRDAI approved distribution channel and marketing outlet of OEM. So MISIP has to participate in sales campaign, failing which their dealership will be lost. There is a contractual obligation between dealer and OEM. The arrangement referred is a marketing offer given by OEM with whom HIBIL has no agreement.
- iii) During the personal hearing HIBIL reiterated the above points. In addition, HIBIL submitted the following:
 - a) Hero Connect is the programme between the OEMs and Dealers for managing the sales of Motor vehicles.

- b) OEMs are responsible for dealers marketing activities and HIBIL has no role to play.
- c) the premium is paid to the insurance company by the dealer with the help of their portal, using payment gateway in case of electronic transfer of funds.
- d) the premium towards OD portion was collected less from the customer and the balance is borne by the OEMs and Dealers in a pre-agreed proportion on the matter of free insurance. The full premium is remitted to insurance companies.
- e) it is a common practice prevailing in the market with other OEMs as well.
- f) the margins are generated mostly from servicing and spare parts on enquiry about the margins that the Dealer and OEMs get in each sale of Motor vehicles.
- g) customers are not compelled to buy insurance from the MISPs sponsored by the broker, as statistics show 10-15% of the buyers of motor vehicles from the dealers/MISPs took insurance from outside.

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

- i) It may be observed that the objective of the MISP guidelines was also to stop the wrongful practise of free insurance which was misleading the customer and violating the provisions of the Insurance Act, 1938 of offering rebate.
- ii) The fact that 1.29 lakhs insurance policies out of 3.52 lakhs 2 wheelers sold shows that 37% customers were influenced to buy the product which is a very significant number and cannot be ignored, thereby inducing the customer and indulging in unfair business practise by HIBIL.
- iii) The admission by HIBIL that cost of OD premium was reimbursed to customer proves that HIBIL was indulging in unfair trade practices, indulging in manipulating insurance business and restricting the choice of the customer.
- iv) The submission by HIBIL that there was no agreement between HIBIL and OEM is a wrong statement as the programme clearly states that offer is facilitated through HIBIL and reimbursement of offer is valid if insurance is through HIBIL. Further according to the brochure, retail count is to be based on data provided by HIBIL and all cancellation to be effected through HIBIL. Also, sales to be cross checked from data made available by HIBIL. All dealers to transfer premium to insurers through portal of HIBIL. All the above conditions in the brochure is a clear admission by HIBIL that OEM influence sales violating IRDAI circular.

D. Decision of the Authority

- i) The Authority examined the charges levied against HIBIL in the Show Cause Notice issued to it. The Authority also perused the submission made by HIBIL. 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) By tagging all sales to the Hero Connect Campaign and other conditions offering discount on labour and interior cleaning HIBIL is inducing the customer and indulging in unfair business practice which restricts the choice of the policyholder to choose the insurer or insurance intermediary. Moreover, since the dealer is sponsored by HIBIL, and Guideline 6 (a) of the MISP Guidelines dated 31.8.2017 which states that the sponsoring entity will be responsible for all acts of omission and commission of the MISP, HIBIL has violated the guidelines 12 & 13 read with 6(a) of the MISP Guidelines dated 31.8.2017.
 - b) By tagging all sales to the Hero Connect Campaign and other conditions the Principal Officer of HIBIL has contradicted his assertion in the duly notarised affidavit and also violated IRDA Circular no. IRDA/ INT/ MISP/ 5/ 01/ 2018 dated 11th January, 2018 which states that it is advised that no MISP or 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 the above actions, the MISP sponsored by HIBIL has violated the following guidelines:

- a. 11(b) - force the prospect / policyholder to necessarily buy motor insurance policy through a particular insurance intermediary
 - b. 11(c) - deny the prospect his rights and options to seek motor insurance policy or renewal of motor insurance policy from any insurance intermediary
 - c. 11(d) - directly or indirectly control or interfere in determination of premium of policies
 - d. 11(e) - direct or indirect imposition of risk selection by insurers or curtailment of choice of the prospect/ policyholder
 - e. 11(l) – indulge in manipulating the insurance business;
 - f. 11(m) – indulge in unfair trade practices
- c) 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. 18 lakhs (Rupees eighteen lakhs) for the violation period of 18 days i.e. from 11th February, 2019 to 28th February, 2019, which is the period of offer.

III. Charge 3:

A. Violation of

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**
- 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**
 - a) HIBIL vide letter dated 24.10.2018 gives indicative premium rates insurer-wise for different categories of vehicle in 2-wheeler and 4-wheeler segment. There is only National Insurance Company Limited in the 4-wheeler segment whose indicative rates are submitted. In case of 2-wheelers again there is only one company whose indicative premium rates are shown for the different category of 2-wheeler. The chart shows that there is only one insurer for one segment of motor vehicle giving no choice to the customer.

B. Submission of HIBIL:

- i) HIBIL in its reply letter dated 04.06.2019 to the Authority has submitted the following:
 - a) it is its endeavour to get a suitable insurance policy to customer. While negotiating best price, HIBIL ensures that customer gets best service from insurer.
 - b) it negotiates the best price for customer and believes that the price offered by insurers is within the scope of insurers underwriting.
 - c) it works for the interest of policyholder. So no complaint is made with Ombudsman, Authority or any consumer forum on any unfair trade practice, undue pressure, deficiency of service or restriction of options by HIBIL.
 - d) it is still in the process of finalizing the premium rates with insurers.
 - e) denied application of uniform rates to customers as different insurer have given different rates for same model on same day or on different days.
 - f) volume of 2-wheeler segment is significant as compared to other segments.
 - g) its past experience involved 1 insurer for 11 years, 3 insurers for 2 years and 4 insurers for less than 1 year. It submitted that it will add more insurers in due course.
 - h) it provides reasonable options of multiple insurers to customers.
 - i) customers of motor vehicles are aware of multiple insurers. The MISPs also inform customers of multiple options, but advises a particular product that carries good price and good after sales and claims service.
 - j) they converted themselves from corporate agent to insurance broker to offer choice to customer. It has the highest no. of MISP. It has made efforts to reach out to Tier II, III & IV locations to reduce uninsured vehicle population. It has also ensured customer claims are handled with professional efficiencies. It has worked hard to expand non-motor business.

- ii) During the personal hearing HIBIL reiterated the above points. In addition, HIBIL submitted the following:
 - a) they have very limited opportunity because the motor OEMs have their own tie-up with insurers. Those insurers are not in a position to underwrite some models/ brands of non-Hero motor vehicles in the same manner as the broking company. They can underwrite the risk for broking company excluding some models of non - Hero brands to avoid the conflict of interest between OEM and the insurance companies.
 - b) it had provided the premium chart, whereas they had committed a typo error while submitting the information to the Authority on 5% premium instead of 5 yrs premium. HIBIL submitted that they will submit the revised information within a day or two through email.

C. Observations of Authority on HIBIL reply and on the submissions made during personal hearing

- i. It may be observed that HIBIL has given no proof of negotiating the best price for the customers from the insurance companies. Further it gave no explanation why only few insurance companies were considered and not all which is a violation of the MISP guidelines.
- ii. No complaint does not mean there is no violation. The submissions by the broker giving the same premium rates of different general insurers is a testimony to the violations.
- iii. HIBIL in its submissions stated that it is in the process of finalising the premium rates with the insurers. The MISP Guidelines clearly stipulate that an insurance intermediary is not allowed to interfere in premium rates directly or indirectly. By the above submission HIBIL has admitted violation of the MISP guidelines.
- iv. It is observed that HIBIL denying uniform rates to customers directly contradicts the earlier submission which shows one premium rate by one insurer for 4-wheelers, 3-wheelers and Misc-D vehicle. Also it shows for 2-wheelers only 3 insurers for 100 cc, 2 insurers for 110 cc, 1 insurer for 125 cc, which again is a violation of the MISP Guidelines.
- v. HIBIL has admitted to violation of MISP guidelines by stating that it is working with 4 insurers for less than 1 year which is from 01.09.2018 i.e. after the start of their business operations and will add more in due course.
- vi. HIBIL has made a wrong assertion that it provides reasonable options of multiple insurers to customers because their earlier submission shows one premium rate by one insurer for 4-wheelers, 3-wheelers and Misc D vehicle.
- vii. HIBIL submission that customers of motor vehicles are aware of multiple insurers and that MISP also informs customer of multiple options, but advises a particular product that carries good price and good after sales and claims service is incorrect. The customers maybe



aware of multiple insurers, but do not get to buy policies at competitive/ right prices because of minimum one general insurer to a maximum of 4 general insurers on the panel created by HIBIL and uniform premium rates being offered by these general insurers. Therefore, it cannot be accepted that HIBIL recommends to the customers the names of general insurers who offer good price and good after sales and claims service.

- viii. It is observed that HIBIL despite converting themselves to broker, do not have all insurers on MISP platform which is a violation of the MISP Guidelines.

D. Decision of the Authority

- i) The Authority examined the charges levied against HIBIL in the Show Cause Notice issued to it. The Authority also perused the submission made by HIBIL. 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) HIBIL being a representative of the customer, has a responsibility to ensure that the policyholder/ customer 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 4 insurers, HIBIL 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 HIBIL 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 HIBIL 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 HIBIL 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 HIBIL has not conducted its dealing with its 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 HIBIL establishes that HIBIL 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) 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 start of business operations of the broking company i.e. 01.09.2018.

C. Conclusion

- i. Hero Insurance Brokers India Pvt Limited is one of the biggest insurance broker covering 2-wheelers in the country. It carries in its name, the name of being one of the largest 2-wheeler manufacturer in the country. Therefore, as one of the top brokers in the two – wheeler insurance broking segment, HIBIL is a leader in its field. This places tremendous responsibility on HIBIL as it is held as the torch bearer of the broking profession. In light of such expectations, HIBIL was expected to act diligently and with utmost care and responsibility. Unfortunately, HIBIL failed in complying with the MISP Guidelines which had been created to protect the interest of the policyholders and other stakeholders. In order to ensure compliance with the MISP Guidelines and to improve governance in HIBIL, the Authority directs the HIBIL 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's systems without any intervention by the broker and report compliance within 3 months from the date of the order. In case any insurer does not wish to enter into an agreement with the insurance broker for selling and distributing motor insurance policies through the MISPs sponsored by HIBIL, 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 exercises choice of selecting the insurer through an OTP based system at the time of issuance of a new motor insurance

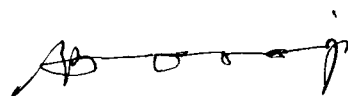


policy and its renewal. The broker company shall complete the task in 6 months and report compliance.

- 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 HIBIL is contrary to the facts. Considering the seriousness of the issue, the Authority under Guidelines 15(d)(1) of MISP Guidelines directs that HIBIL shall not pay performance incentives to the Principal Officer for one year from the date of this order. HIBIL shall submit compliance of this direction to the Authority.
- iii. Based on above decisions in charge no. 1, 2 & 3 M/s. Hero Insurance Broking India Pvt Ltd., is hereby directed to pay a penalty of Rs. 2,18,00,000/- (Rupees Two Crores Eighteen Lakhs only)
- iv. The penalty of Rs. 2,18,00,000/- (Rupees Two Crores Eighteen Lakhs only) shall be remitted by HIBIL 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 HIBIL 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: December, 18, 2019



(Sujay Banarji)

M Member (Distribution)