



The European Federation of Insurance Intermediaries
La Fédération européenne des intermédiaires d'assurances

To the Chairpersons of the BIPAR member associations

Brussels , 16 December 2008

Subject: Competition Inquiry – Follow-up on coinsurance !

Dear Madam, dear Sir,

We have now (informal) confirmation that DG Competition will organize a follow-up to the coinsurance part of their report in the first half of 2009 (please refer also to our letter of 18 November 2008 with regard to the same subject, we thank those associations that have already answered the questionnaire. We re-invite those associations who have not yet answered to do so as soon as possible.)

This follow-up will most probably take the form of a questionnaire to mainly clients (but also some intermediaries and (co-) insurers may be contacted). The objective of this follow-up will be, amongst other things, to test clients' awareness about the coinsurance concerns of DG Comp and about the BIPAR high level principles. The questionnaire will probably also test in how far procedures have indeed changed in recent coinsurance processes and contracts and in how far they have improved the clients' situation.

In this respect, allow us to remind you that DG Competition has made it clear that *"the market should change its procedures or face further mandatory requirements."*

You will agree that the results of this follow-up will be important and we therefore kindly invite you to take as soon as possible initiatives (if not done yet) which create or reinforce awareness about the concerns of DG competition and about the BIPAR high level principles both at the level of your members and at the level of insurers and if possible at the level of risk managers and other clients.

We would also suggest that you invite your members to start preparing examples of how they have changed their coinsurance procedures in order to respond to the DG Competition's concerns (and how they informed their clients about it).

Examples of concrete initiatives (or updates) in the framework of this issue in your national market continue to be welcome at the BIPAR Secretariat.

Thank you for your kind attention to this important matter.

Yours sincerely

Alain de Miomandre
Chairman

Nic De Maesschalck
Director

Background

In August 2005, the EU Competition Directorate instigated a sector survey into the commercial insurance sector. The final results of the inquiry were released in September 2007 in a Communication from the Commission.

In this Communication (hereafter referred to as the “final report”), we can read the following: *“The sector inquiry identified three key issues that will need to be followed up by the Commission and/or national authorities:*

- *Certain practices leading to premium alignment when coinsurance and reinsurance is purchased through a two-step procedure involving a lead and following (re)insurers;*
- *Instances where a pervasive market practice of long-term contracts may lead to cumulative foreclosure; and*
- *Indications of potential market failure in respect of insurance brokerage.”*

Further in this Communication we can also read *“The Commission invites the parties concerned by the various issues identified to carry out their own assessment and to engage in a dialogue with a view either to clarifying whether or not these practices are compatible with competition law, and/or to reviewing the practices in question”.*

Allow us to remind you also the following :

Regarding coinsurance, DG Competition raised concerns about certain practices in the European coinsurance market. DG Competition has made it clear that the market should change its procedures or face further mandatory requirements.

At a BIPAR meeting in Madrid in March 2008, a representative of the European Commission’s DG Competition said the following about our high level principles on co-insurance: *“The Commission very much welcomes BIPAR’s initiative and these high level principles. They are constructive and in the spirit of discussions we have had with market parties. Implementation will now be key but if practices change in accordance with these high level principles it will remove our immediate concerns. **We are calling on market parties to develop new and creative ways of completing placements at the most advantageous terms for clients.** We will closely monitor the situation going forward.”*

BIPAR

BIPAR high level principles for placement of a risk with multiple insurers

Brussels, 28 April 2008



BIPAR, the European Federation of Insurance Intermediaries, is a non-profit European organization grouping professional associations of insurance intermediaries in Europe. It presently has a membership of 46 national associations, established in 31 countries, and represents some 80,000 insurance agents and brokers, employing in all about 250,000 people. Founded in Paris in 1937, BIPAR has been established in Brussels since 1989. It is today the recognised voice of insurance intermediaries with the European Institutions.

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INTRODUCTORY NOTE

The following high level principles are intended to set the framework for multiple insurance placement options to be considered autonomously on a case by case basis by each party.

All parties are reminded that they may still have additional obligations under relevant EU and national competition legislation.

A representative of the European Commission's DG Competition about these principles:

At a BIPAR meeting in Madrid in March 2008, a representative of the European Commission's DG Competition said the following about these High Level Principles: *"The Commission very much welcomes BIPAR's initiative and these High Level Principles. They are constructive and in the spirit of discussions we have had with market parties. Implementation will now be key but if practices change in accordance with these high level principles it will remove our immediate concerns. We are calling on market parties to develop new and creative ways of completing placements at the most advantageous terms for clients. We will closely monitor the situation going forward."*

The CEA, the European insurance and reinsurance federation, about these principles :

"The CEA, the European insurance and reinsurance federation, welcomes the following high-level principles for placement of a risk by brokers with multiple insurers. The CEA calls on its member associations and their member firms to give adequate consideration and follow-up to these principles".

BIPAR high level principles for placement of a risk with multiple insurers

BACKGROUND

- A. The co-insurance market plays a vital role in facilitating the placement of business risks among multiple insurers.
- B. The 2007 EC DG Competition report on the sectoral inquiry into business insurance recognises the important function of the co-insurance market but expresses concerns about the absence of an opportunity for the following market to compete on the premium.
- C. These principles aim to sustain a vibrant co-insurance market in which the client has choice and premium alignment is not automatically adopted as the mechanism for placing the risk in the co-insurance market.
- D. It is important that the client has a clear understanding of the role of the intermediary, the nature of his/her relationship with insurers (such as contractual obligations to one or more insurers), the basis on which any advice is provided (such as fair analysis or not), the services provided, the nature of the insurance required and the possible approaches to placing that insurance.

Principles

1. The intermediary shall, based on information provided, specify the demands and needs of the client as well as the underlying reasons for any advice.
2. Before placing a risk, an intermediary will review and advise a client on market structures available to meet its needs and, in particular, the relative merits of a single insurer or a multiple insurer placement.
3. If the client, on advice of the intermediary, instructs the latter to place the risk with multiple insurers, the intermediary will review, explain the relative merits and advise the client on a range of options for multiple insurer placement. (1)

Intermediaries will expect insurers to give careful independent consideration to the option requested.

4. In the case of a placement of a risk with a lead insurer and following insurers on the same terms and conditions, the previously agreed premiums of the lead insurer and any following insurers will not be aligned upwards should an additional follower require a higher premium to complete the risk placement. Indeed, the intermediary should not accept any condition whereby an insurer seeks to reserve to itself the right to increase the premium charged in such circumstances.
5. During the placement of the risk, the intermediary will keep the client informed of progress.

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- (1) There are a range of options for multiple insurance placements. Two examples of which are the following:
 - i. Selection of a lead insurer through a competitive process and subsequent invitation to potential following insurers to cover part of the risk on the same contract conditions and premium, it being understood that nothing should prevent following insurers quoting a different premium;
 - ii. Selection of lead insurer through a competitive process followed by a series of negotiations between the broker and potential following insurers for the coverage of part of the client's risk not covered by the lead insurer with identical contract conditions and different premiums across all or some of the participating insurers.