



IUMI
International Union of Marine Insurance

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European Commission
Directorate-General for Competition
(for the attention of the Antitrust Registry)
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HT.4012 Insurance BER Review
Consultation on the Insurance Block Exemption Regulation (IBER)
Position of the International Union of Marine Insurance IUMI

Dear Sir / Madam,

1. Introduction / Stakeholder Profile

IUMI currently has 48 national (marine) insurance associations as members. IUMI's purpose is to protect, safeguard and advance insurers' interests in marine and all types of transport insurance. It also provides an essential forum to discuss and exchange ideas, information and statistics of common interest for marine underwriters and enables an interexchange with other marine professionals. IUMI's roots date back to 1874. The roles of IUMI are as follows:

- acting as a focal point and representative voice on behalf of the marine and transport insurance industries in dialogue with all interested parties,
- sharing information and research that are non-commercially sensitive with regard to marine and transport insurance,
- bringing together marine insurance practitioners to facilitate the exchange of technical information and best practice, and
- providing information on positions taken by IUMI.

Therefore, IUMI has an interest in the EU consultation on the Insurance Block Exemption Regulation (IBER).

2. Position

The IBER issue not only affects marine insurance, but all lines of insurance business. Hence IUMI's position is very much in line with the position of Insurance Europe. Our statements with regard to certain questions accordingly mirror the Insurance Europe position. Please note that IUMI is only answering the questions which play a center role in the marine insurer's interest.

a. Question 8, Innovations / market developments in the insurance sector in the last 10 years – impact on (re)insurers' cooperation on joint studies, tables and compilations?

With rapid technological developments, exchanging data becomes increasingly important, in particular to safeguard customers' interests (e.g. for fraud prevention and detection purposes) and to offer innovative products and services meeting customers' fast evolving needs and demands. Future technological developments will make it necessary for insurers to continue cooperating in the area of joint compilations, tables and studies.

Data from individual companies – even large ones – would be insufficient to allow a proper analysis of risks characterized by a very low occurrence frequency and a very high damage proportion. Especially major hull claims, but also major events in cargo events fall in this category. As examples, the casualties of the Costa Concordia, the MOL Comfort and the Rena have to be named; same example for the consequences of super storm Sandy in cargo insurance. For proper assessment and insurance of all these events joint compilations, tables and studies in advance are necessary.

b. Question 10, Has your business strategy or the way you compete (on price, quality, brand, coverage, etc) in the (re)insurance sector evolved in the last ten years and how??

Solvency II is shortly expected to come into force. The Solvency II core principle is the total balance sheet approach which links up the available and the required capital for solvency purposes to all assets and liabilities as measured in the regulatory balance sheet of the insurer and the way they interact. This in turn will have direct implications on product pricing and coverage, but also on the choice of the risks that the insurer will take. As a result good risk management will become even more important and this implies the necessity of developing studies and statistics for the industry concerning risks to be insured or taken, whether they be on the liability or the asset side of the balance sheet. Such studies allow undertakings to comply with all the requirements to be introduced by Solvency II. In addition, (re)insurance pools might be an important tool for risk diversification under Solvency II.

Markets that provide information such as studies and statistics are cooperating to make their markets more transparent and consequently new insurance companies entering these markets have the same information at their disposal as the local companies have.

c. Question 13, Do you consider that the existence of the IBER has improved your capability to accurately price risks or allowed you to enter any specific insurance segment in which you would otherwise not be active? Has the existence of the IBER provided you with a better footing to penetrate other Member States' markets?

IUMI is of the strong opinion that the IBER has proven its contribution to the insurers' capability to accurately price risks and to facilitate new competitors' entry into insurance segment in which they would otherwise not be active.

- Exempted form of cooperation on joint compilations, tables and studies: An exemption helps insurances undertakings, in particular small and medium-sized insurance undertakings and new entrants, to carry out calculations on a reasonable basis, thus enabling a more accurate risk pricing, while without such an exemption, they would not be able to access and remain in markets. It also benefits larger undertakings by allowing them to obtain more precise statistics than the ones they would be able to collect by themselves. The exemption benefits all market players in non-concentrated markets since each individual operator, regardless of its market share, would not be able to obtain representative and reliable data on its own.
- Exempted form of cooperation on pools: IUMI agrees with the EC that *“risk sharing for certain types of risks is crucial in order to ensure that all such risks can be covered”* and that *“pools (...) may, for example, allow their participating undertakings to gain the necessary experience of the sector of insurance involved, or they may allow cost savings, or reduction of commercial premiums through joint reinsurance on advantageous terms”*. *The exemption is subject to strict conditions to ensure it does not benefit to agreements permitting the undertakings involved the possibility of eliminating competition in respect of a substantial part of the products in question. Consumers can benefit effectively from pools only if there is sufficient competition in the relevant markets in which the pools operate”*. This leads to an increase in the availability of insurance products on the market, while cross-border pools help to create a more integrated insurance industry throughout the EU.

d. Question 14: Are there in your view markets that would not exist without the exemptions foreseen in the IBER?

Yes. The use of market data can prove essential for niche lines of business, such as insurance or transport of freight, aviation, marine and transport policies as, without such data, insurance companies, and in particular small and medium-sized insurers, would not have sufficiently precise and representative statistics to offer related-insurance coverage. The absence of the IBER would effectively make it more difficult for small and medium-sized insurers to access these markets.

e. Question 16: Would customer choice and supply diversity be appreciably reduced without the IBER exemptions?

Yes. IUMI is convinced that the IBER has contributed to enhancing customer choice and supply diversity. In contrast, without the legal certainty provided by the IBER, there is a significant risk that insurers would no longer cooperate on joint compilations, tables and studies, and in relation to pools.

The absence of cooperation on joint compilations, tables and studies would result in a reduced knowledge of the risks and a more restricted choice in terms of providers and of products to the detriment of customers. Instead of engaging in cooperation, due to the lack of legal certainty big insurers would otherwise prefer to rely on their own portfolio and collect statistics by themselves. As a result, because of the restricted size of their portfolio, small and medium-sized insurance undertakings and new entrants would not possess sufficiently representative and reliable data to enable them to carry out calculations on a reasonable basis and they will thus be excluded from the market. The absence of such cooperation would also negatively affect all market players in non-concentrated markets, since each individual operator, regardless of its market share, would not be able to obtain representative and reliable data on its own.

In the absence of pools, certain types of risks may not find any insurance coverage as individual companies would be reluctant to cover the risk individually or unable to insurance the entire risk alone, both being to the detriment of customers. The options of companies for risk sharing would be reduced. In many cases, reinsurance is not a viable alternative; furthermore, reinsurance does not increase customer choice and supply diversity.

f. Question 25: Are there in your view other options which the Commission should consider?

Should the current IBER not be renewed, the EC would have to secure the legal validity of the scope and conditions of the cooperation forms covered by the current IBER after its expiration via a new legal instrument, ensuring a similar level of consistency and uniformity of antitrust rules across the EU.

Guidance or guidelines, while preferable if adapted to an assessment within the Horizontal Guidelines, if adapted to the specificities of the insurance sector would not meet such pre-requisites.

g. Question 33: What would be the changes in your conduct if the cooperation between insurers in joint compilation, tables and studies were assessed exclusively under the provisions on information exchange of the Commission guidelines on horizontal co-operation agreements?

There is a significant risk that operators would cease cooperating for reasons of prudence. The provisions on information exchange in the Horizontal Guidelines are in no way adapted to the assessment of joint compilations, tables and studies. Under the IBER, the market conditions are irrelevant for the assessment of

joint compilations, tables and studies, and a high participation level of market players is considered a positive aspect.

On the other hand, the market structure is an important aspect of the analysis under the Horizontal Guidelines, and a high proportion of the market participating in an exchange of information is considered as a negative factor. The Horizontal Guidelines do not take into account the specific features of the insurance markets, which – as the examples cited above show – might even lead to results which are opposed to the intentions of the current IBER.

h. Question 37: What are in your view the overall likely impacts of each of the policy options mentioned in Section "2.4 Policy options" above? Are they likely to induce any specific changes in business practices or impact consumers?

Total Renewing the current IBER would help to maintain the pro-competitive effects described in our response to Q13.

Renewing the exemption for cooperation in the area of joint studies, tables and compilations would continue facilitating operators' involvement in this form of cooperation, with a number of pro-competitive effects. Not renewing the exemption on joint studies, tables and compilations would discourage operators from engaging in such cooperation.

Renewing the exemption on pools would continue to facilitate operators' participation in this form of cooperation, with a number of pro-competitive effects. Not renewing the exemption on pools would discourage operators from engaging in such cooperation and have a negative impact.

IUMI is of the opinion that that the IBER has contributed to enhancing customer choice and supply diversity. In contrast, without the legal certainty provided by the IBER, there is a significant risk that insurers would no longer cooperate on joint compilations, tables and studies, and in relation to pools. The absence of cooperation on joint compilations, tables and studies would result in a reduced knowledge of the risks, a more restricted choice in terms of providers and of products to the detriment of customers. Indeed, instead of engaging in cooperation, due to the lack of legal certainty big insurers would prefer to rely on their own portfolio and collect statistics by themselves. As a result, because of the restricted size of their portfolio, small and medium-sized insurance undertakings and new entrants would not possess sufficiently representative and reliable data to enable them to carry out calculations on a reasoned basis and they will thus be excluded from the market.

The absence of such cooperation would also negatively affect all market players in non-concentrated markets since each individual operator, regardless of its market share, would not be able to obtain representative and reliable data on its own, with a negative effect on the accuracy of risk pricing.

In the absence of pools, certain types of risks may not find any insurance coverage as individual companies would be reluctant to cover the risk individually or unable to insure the entire risk alone, both being to the detriment of customers.

3. Summary

- Exchange of data to become increasingly important due to technological developments.
- Data from individual companies is insufficient to allow a proper analysis of risks characterized by a very low frequency and very high claims (example Costa Concordia, MOL Comfort, Rena...).
- Joint statistics enable more accurate pricing of risks, open up markets and are of importance to cross-border competition, which is the case within marine insurance; this is of particular importance to smaller insurance undertakings and new entrants.
- IBER provides legal certainty.
- If IBER is not renewed, the EC will have to secure the legal validity covered by the current IBER through a new legal instrument to ensure the same level of consistency and uniformity of antitrust rules across the EU.

IUMI is aware that the deadline for comments has already expired. We do apologize for the late response and express our hope that our letter may still be taken into consideration.

Best regards


Lars Lange
IUMI Secretary General