

## Submission to EC consultation on EC R&D and Specialisation block exemptions and 2011 Guidelines on the applicability of Article 101 TFEU

Our reference:	COB-20-017	Date:	12 February 2020
Referring to:	<i>EC Consultation for the 2019 Evaluation of the Research &amp; Development and Specialisation Block Exemption Regulations, including the 2011 EC Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements</i>		
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### Summary

Insurance Europe supports the continued application of the 2011 EC Guidelines without amendment.

### Submission

Insurance Europe welcomes the EC's 2019 evaluation of the Research & Development and Specialisation Block Exemption Regulations, including the 2011 EC Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union ("TFEU") to horizontal co-operation agreements ("the 2011 Guidelines").

For the European (re)insurance industry, the 2011 Guidelines have been extremely valuable to explain the necessity for, and ensure the legality of, certain agreements to national supervisory and conduct authorities.

**Retaining the 2011 EC Guidelines is therefore seen as necessary by (re)insurers.**

Since the analysis of the conditions of Article 101 of the TFEU is complex, exemption regulations and guidelines are useful instruments, which assist insurers in the self-assessments. The explanations and examples of their application are useful aids, and lead to cheaper self-assessments than if they were made solely based on Article 101 of the TFEU.

The Guidelines are useful in providing broad guidance and enable insurance undertakings to carry out self-assessments of their cooperation needs.

In respect of section 2 on the **General Principles on the Competitive Assessment of Information Exchange**, insurers should be permitted to continue to exchange information within its confines. The continued ability to discuss industry-specific or market-specific issues that may arise and develop solutions in collaboration within, for example, a trade association forum, is invaluable.

Insurance Europe values the clarification in para 97 that the exchange of consumer data can be carried out. For instance, the exchange of data on recurrent consumer fraud is invaluable for insurers and benefits the remaining body of consumers. Fraud data improves risk assessment and therefore improves the fairness of pricing to the benefit of the majority of consumers who do abide by the policy terms and conditions.

Similarly, the exchange of consumer data relating to new or developing risks may also benefit consumers as it may assist the development of, and insurers' ability to offer, cover for new risks and thereby better meet consumer demand and needs. The continued ability of insurers to exchange risk data to develop statistics with the aim of a better knowledge and understanding of risk is necessary; underlying such exchanges are agreements for information exchange which should be permitted within the parameters clarified in the 2011 Guidelines.

In respect of section 4 on **Production Agreements**, the 2011 Guidelines contribute to the diversity of products. They enable insurers to create pools to underwrite risks — or underwrite risks at a capacity — that would otherwise not be possible for an individual carrier. Such horizontal cooperation agreements are absolutely necessary for the benefit of consumers who will have access to products that may not otherwise be available or products that are more affordable. This benefits insurers' competitiveness as it maximises insurers' ability to meet consumer needs and demand.

In respect of section 7 on **Standardisation Agreements**, insurers should be permitted to continue to develop and apply standard terms and conditions in (re)insurance contracts within the parameters of Article 101 TFEU, as clarified by the 2011 Guidelines.

Insurance Europe values the clarifications set out in, for instance, para 259 in reference to insurance and consumer contracts. This is because national trade associations and/or insurers may develop and envisage non-binding standard terms to deal with a specific issue that may have arisen in a national market or specific product class. These are generally developed with the main motivation of benefiting consumers. Such standard terms and conditions make it possible for insurers to achieve efficiency gains, help consumers to better understand the coverage of risk offered and their own coverage needs, and increase the ease with which consumers can compare the policy terms and conditions offered by different insurance companies. They can therefore improve consumer understanding of products and the comparability of products.

Insurance Europe confirms the continued relevance of the examples set out in, for instance, para 328 on security devices and para 335 on standard terms. Examples such as these can be useful to illustrate compliance with competition law; for example, where a national competent authority seeks to apply a restrictive interpretation of national legislative provisions. They have, on several occasions, been used in such instances.

Insurance Europe therefore supports the continued application of the 2011 Guidelines without amendment.

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