



Dr Irmfried Schwimann
European Commission
Directorate-General for Competition
Financial services (banking and insurance)

Vienna, 6 April 2007

Comments of the Austrian Insurance Association (VVO) on the interim report on the inquiry into the European business insurance sector pursuant to Article 17 of Regulation 1/2003.

Dear Dr Schwimann,

the Austrian Insurance Association (Verband der Versicherungsunternehmen Österreichs, VVO) was founded in 1899 and is representing and promoting the interests of all insurance companies operating in the Austrian Insurance Market regarding legal, economic, fiscal and international matters towards authorities on national, European and international level. The VVO is a founding member of the European Federation of National Insurance Associations (Comité Européen des Assurances, CEA). Austrian insurance companies are currently operating in 10 EU Member States. In several Central and Eastern European countries Austrian insurers jointly cover more than one third of the local market.

I General Remarks

The Austrian insurance industry welcomes the use of competition policy to identify potential barriers in the Internal Market for financial services. The Austrian Insurance Association would like to thank the European Commission for giving the opportunity to express our view on the interim report on the inquiry into the European business insurance sector pursuant to Article 17 of Regulation 1/2003.

II Special remarks - Duration of contracts in the business insurance sector

Q.6 Have you experienced that the duration of insurance contracts represented a barrier to entry for insurers wishing to penetrate new markets and/or acquire new customers? Please explain your answer also taking into account the existence of termination and of automatic renewal/extension clauses.

In 2005 a study among Austrian insurance customers carried out by an independent body¹ showed a high level of satisfaction with their insurance products. The findings of the interim report confirm this by identifying a long average duration of insurance contracts in Austria. Moreover strongly localised


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¹ Branchenstudie Versicherungen 2005 von GfK Austria



distribution structures improve customer driven services and provide clients with products tailored to their individual needs. This turns Austria into a well served market with a high degree of customer loyalty.

From an economic point of view long-term insurance contracts didn't represent a barrier to entry for insurers. One third of the insurers currently active in Austria is EEA insurers operating via branch offices. 685 insurers are registered for operating under the freedom to provide services. Comparing the population and the number of companies, Austria is corresponding to the average within the EU-27.

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From a legal point of view it is important to underline that according to national court rulings, long term duration contracts are not conflicting with Article 879 paragraph 1 of the Austrian General Civil Code (*Allgemeines Bürgerliches Gesetzbuch, ABGB*). This article allows for contracts to be declared null and void if this contract infringes good morals or a specific prohibition of law.

Moreover long term duration contracts are often linked with premium agreements to the benefit of the customer. Automatic renewal/extension clauses are elements comforting customers, preventing them from being uninsured out of inattention and represent thus an essential contribution to policyholder protection.

III Special remarks - Horizontal cooperation

Q.11 The inquiry's data concerning the various forms of cooperation among insurers show substantial differences among Member States. How can these differences be explained?

VVO strongly supports keeping and renewing the current Commission Regulation No 358/2003 of 27 February 2003 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector (hereinafter referred to as "Block Exemption Regulation - BER"). The BER takes into account the insurance sector's specificities and proved to safeguard competition, insurability, legal certainty, market diversity, transparency and risk prevention.

Without the Block Exemption Regulation the European insurance markets would have to audit each single activity whether it is in line with competition rules. This will ultimately lead to 27 different regimes and a re-fragmentation of the Insurance Single Market.

Moreover, the costs deriving from the additional administrative burden caused by single audits will ultimately have to be passed on to the policyholders.

III a Joint calculations, tables and studies

Due to the smaller market size the sharing of risk data plays a vital role in Austria. Without the sharing of risk data not even big market players would have



access to representative risk data for certain insurance lines due to their limited portfolio. Market participants would thus encounter difficulties to calculate reasonably. Commercial decisions like pricing, financial control, profit or loss could not be properly made by small and medium-sized insurance undertakings or new entrants alike.

Especially with regard to the forthcoming requirements under Solvency II the BER would be tailored to enabling the insurance industry to meet future needs.

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→ *An abolishment of the Block Exemption Regulation would endanger the creation of representative and therefore reliable data and speed up market concentration.*

III b Standard policy conditions and models

Standard policy conditions allow market access for more suppliers, particularly small and medium-sized insurance undertakings and foreign insurers who cannot simply translate their own contractual terms.

The high level of use of standard policy conditions in Austria can be explained by the following facts:

- legal characteristics of insurance lines, particularly compulsory insurance
- maturity of market structures

The high level of use of standard policy conditions in Austria can be explained by the high number of compulsory insurances (more than 120). The prescriptive character of compulsory insurance like Motor Third Party Liability insurance narrows the possibilities of individual policy conditions as the standard policy conditions are developed upon legal requirements.

Article 18 paragraph 4 of the Austrian Motor Third Party Liability Insurance Act (*Kraftfahrzeughaftpflichtversicherungsgesetz, KHVG*) even obliges the insurer to indicate explicitly to the policyholder any deviation of his policy conditions from the standard policy conditions.

Moreover, Austria is a mature market with approved structures developed over several decades. An abolishment of standard policy conditions established by insurance associations would have a reverse effect: big market players would set up their own conditions and smaller companies lacking of means and resources would have to follow. Under the current BER regime there is a well balanced market basis to develop standard policy conditions, taking into account all relevant aspects of national legislation and court rulings.

VVO's standard policy conditions are non-binding and open to everyone. All standard policy conditions may be downloaded from VVO's website:
<http://www.vvo.at/musterbedingungen/index.php>



→ *An abolishment of the Block Exemption Regulation would decrease transparency and favor market foreclosure.*

III c Common coverage of certain types of risks

Without pools or co-insurance, there would be a decrease of insurability and thus less protection especially in smaller markets like Austria. Pools and co-insurance are needed to create financial capacity to cover new or emerging risks deriving from science or technology or driven by social, economic or legal changes. There can also be known risks that develop different trends or unprecedented dimensions like natural catastrophes or terrorism.

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→ *An abolishment of the Block Exemption Regulation would decrease insurability and thus lower the level of protection of Austria's citizens and economy.*

III d Security devices

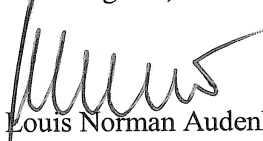
Insurers' risk assessment is reflected in price and policy conditions. In this way they offer clients an indicator of their risk level. The policyholder can take action to reduce the risk profile, or to reduce the potential damage, or both. Therefore, by means of risk pricing related to security devices, insurance acts as a precaution improver and encourages responsible and sustainable use of resources. The insured person is educated, reduces the probability of losses and clearly sees the advantages of action taken to reduce risk.

Many different kinds of standardisations in the market would lead to a lack of orientation to the detriment of the policyholder.

→ *An abolishment of the Block Exemption Regulation would lower transparent incentives for risk prevention leading to an undesired behaviour from a macroeconomic point of view.*

The Austrian Insurance Association is looking forward to provide - if needed - further contributions related to the subjects mentioned above.

With best regards,



Dr. Louis Norman Audenhove
Director General
Austrian Insurance Association