COOPERATION AGREEMENTS (INSURANCE): COMMISSION STATEMENT

Subject: Cooperation agreements
Information agreements
Standardisation
Tariffs

Industry: Insurance

Source: Commission Statement IP/99/360, dated 27 May 1999

(In insurance, as in banking, there are certain respects in which the industry needs to standardise procedures, cooperate in their implementation, exchange information about market conditions and, to a limited extent, settle tariffs. This was recognised in a block exemption regulation in 1992. However, the regulation was incomplete, due to the Commission's self-confessed lack of experience in the problems of this sector; and the Commission has accordingly issued a report on the practice it has adopted since the regulation came into force. It has invited comments on the report. A statement summarising the report is set out below.)

The Commission has just sent to the European Parliament and the Council the report it adopted on 12 May last on the operation of the Community regulations authorising certain types of cooperation between insurers with regard to the rules of competition in the EC Treaty. The Commission also describes in this report how it assesses agreements of this type which do not meet the conditions for application of these general rules. In particular it explains how it examines agreements setting up insurance or reinsurance pools. The Commission calls on the national competition and supervisory authorities and the insurance industry to present their observations with a view to revision of the regulations in four years' time.

Background

In 1991 the Council empowered the Commission to adopt a regulation authorising six types of agreement in the field of insurance subject to certain conditions. The agreements concerned are: (a) the joint establishment of tariffs of risk premiums; (b) the establishment of standard insurance conditions; (c) the joint coverage of certain types of risk (pools); (d) verification and approval of safety equipment; (e) settlement of claims and (f) registers and information systems concerning aggravated risks.

In 1992 the Commission adopted its block exemption regulation. This regulation does not cover the last two of the above types of agreement as the Commission did not have sufficient experience in the matter.

Report

In its report the Commission reviews its administrative practice over the last six years and outlines future prospects.

The assessment of pools (such as those covering aviation risks) has proved the most complex. It will continue to be a priority in the years ahead, in particular with the examination of pools covering environmental and nuclear risks. The Commission concludes that the minimum size of pool that is required to cover the risks in question is never restrictive of competition. On the other hand, the legality of the other pools will in principle depend on the market shares and, where these exceed the shares stipulated in the regulation (10% for co-insurance and 15% for co-reinsurance), the arguments put forward.

It has also been difficult to determine whether cooperation agreements on premiums remain within the limits of what is necessary for statistical purposes. The examination in some cases requires expert appraisal that Commission departments could not undertake without causing the regulation to lose its raison d'etre (that is, to restrict the examination of agreements to individual cases). They are therefore more concerned with measuring the concrete effects of such agreements on the pricing policy that insurers apply to their customers. If commercial premiums differ substantially, the agreement will be deemed not to cause any appreciable restriction of competition.

As regards standard policy conditions, the Commission has concentrated on "black" clauses (in principle banned) such as that excluding certain risks from cover. Under the regulation, standard policy conditions, including certain "black" clauses, are authorised provided that the national associations stipulate that the relevant recommendations are not binding on their members. In future they should nevertheless check more carefully whether or not the insurers respect these recommendations.

As regards security equipment (such as car alarms) the regulation authorises insurers to impose technical specifications, in particular where these are to become European standards. There is little evidence that the regulation has prompted insurers to impose such specifications. Some thought must be given to what operational conclusions can be drawn from this finding.

The Commission has no plans for extending the regulation to the two types of agreement not covered at present. There is still not sufficient experience of settlement of claims, while registers of aggravated risks do not, as such, seem to restrict competition. The Commission wishes to receive the written observations of interested parties within three months. It is also asking national courts, competition authorities and supervisory authorities to provide information and comments. A hearing may be held subsequently. The observations and information collected will help the Commission in planning the revision of the regulation, which remains valid until March 2003. □