

EU INSURANCE BRIEFING



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Update on the European Commission's anti-trust inquiry into business insurance

We have previously commented on the sector anti-trust inquiries which DG Comp of the European Commission has been conducting into: (i) energy; (ii) retail banking; and, most importantly, (iii) business insurance.

This briefing updates on the business insurance inquiry, in particular the Commission's announcement of a public hearing, but with reference also to the energy and banking inquiries since these are more advanced and so, possibly, illustrative of the Commission's approach.

Status of the energy and retail banking inquiries

On 10 January, the Commission published the definitive results of its inquiry into the energy, gas and electricity sector. This final report concludes that consumers and businesses incur losses as a result of inefficiencies and high prices in the gas and electricity markets. The Commission has isolated problems relating to: high levels of market concentration; vertical integration of supply, generation and infrastructure leading to a lack of equal access to, and insufficient investment in, infrastructure; and, possible market sharing agreements between incumbent operators. The Commission has stated it will take action under the competition rules, including merger control and state aids. As reported in our briefing of November 2006, the Commission has

already conducted a number of inspections of relevant companies. In addition, it will take action to improve the regulatory framework for energy liberalisation.

As noted below, certain issues identified in energy also arise in insurance.

As regards retail banking, the consultation following publication of the Commission's initial findings ended on 9 October. Publication of the final report is expected at the end of January.

The progress of the business insurance inquiry

The Commission has announced a public hearing on the preliminary findings of the sector inquiry into business insurance. It will take place on 9 February 2007, in Brussels. Meantime, the Commission expects to publish its interim report by the end of this month.

At the hearing, the Commission will present its preliminary findings of the inquiry and has also invited a number of market stakeholders to discuss these in expert panels. Speakers include the president of CEA, the CEO of Gothaer Insurance, the vice chairman of CEIOPS, the chairman of BIPAR, the director of FERMA, the director of UEAPME, the president of the Polish Chamber of Insurance, the vice chairman of Willis, the secretary general of FCI, and representatives from Generali and UNICE. However, the hearing will also give the opportunity to the audience to participate in the exchange of views.

In addition to the hearing, the publication of the interim report will initiate a consultation process on the interim report which will remain open until 10 April, 2007. The results of the hearing and consultation will be reflected in the final report of the inquiry, which is scheduled for publication in summer 2007.

Preliminary indications of the results of the business insurance inquiry

The inquiry into business insurance has so far examined a variety of issues such as: the use of the “block exemption” Regulation, e.g. sharing of risk-relevant data and the scope of co-insurance agreements; the conditions for entry to the market, e.g. access to risk data, regulatory conditions and market structure; and the possible existence of agreements between insurance/reinsurance intermediaries and insurers/reinsurers.

In the light of the Commission’s study to date of the replies to its inquiry, next month’s hearing will concentrate on two issues:

- cooperation between insurers: this suggests that the inquiry has identified anti-competitive restrictions in the market; and

- distribution issues: this will probably include discussion of Spitzer-type issues, but the discussion may also be wider-ranging.

The business insurance report will not mirror that published about the energy sector. The energy sector report has addressed many issues relating to various structural problems relevant to that sector, whereas the programme of the insurance hearing indicates that the business insurance report will concentrate on more straightforward competition policy issues, such as cooperation between competitors.

It is rare for insurance to be so much “in the limelight”; industry players have every interest in attending or, at least, monitoring the hearing and in participating in the subsequent consultation process. The conclusions of the final report are likely to shape the competitive landscape of European general insurance for many years.

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