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FERMA A.I.S.B.L. - AVENUE LOUIS GRIBAUMONT 1/B.4, B - 1150 BRUSSELS, BELGIUM
(T) +32 2 761 94 32 (F) +32 2 771 87 20 (EMAIL) info@ferma.eu - www.ferma.eu

European Commission
DG Competition
Review of Insurance BER
Antitrust Registry
Josef II Street
B – 1049 Brussels

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Review of Insurance BER – Replies to questionnaires – COMP/D1 HT 1221

Dear Sir/Madam,

Further to Mrs Schwimann's letter dated 09/06/2008, FERMA is pleased to provide its views on the Insurance BER.

FERMA has not replied to the consultation paper directly: Indeed FERMA is a pan European federation when most of the questions were very specific to national practices. But FERMA has encouraged its national association's members to participate and we understand that some of them have taken an active role.

Nevertheless FERMA is pleased to reply on the specific questions addressed to us and discussed with our European members. (See attached).

Yours faithfully,

Thierry van Santen
Head of European affairs
FERMA

QUESTIONS

1. How do you evaluate the level of competition in the insurance sector? Think in terms of, for example, availability of products (choice), pricing, new markets entries, transparency, etc. Please explain your answer in relation to each example.

Our position is that there is an overall strong competition in the Business insurance sector but the number of players is shrinking quite rapidly, especially in Europe. The Insurance buyers, members of FERMA are quite worried with the high concentration in this specific segment and think that the first objective at the European scale would be to take actions to favour the niche markets and the new players. And our conclusions are that between the Solvency II requirements to come and the potential cancellation of the BER, it would be almost impossible for a new company to start a new business or for a "niche" company to benefit from the market expertise. We want to remind that S2 will require from the new companies to justify their solvency margin/capital in using loss ratio databases and therefore it is quite important to keep the tools needed to allow small players to have a good market knowledge and new comers to be able to design a strong business model.

2. In your experience, to what extent has the use of standard policy conditions by the insurers affected the availability of customized insurance products (coverage for certain risks) for large customers? For example, if they are extensively used: has this led to more or less availability of such products? Please explain your answer.

We do not see any problem with the use of Standard Policy Conditions considering that they are easily and usually amended. In addition the Standard policy conditions practice allows to build up a "market" expertise for insurers but also brokers and buyers with a common understanding of the meanings during negotiations. In addition it helps to minimize significantly conflicts in loss settlements.

3. To what extent do you consider that co-insurance (co-reinsurance) groups ("pools") provide insurance for risk which otherwise would have no sufficient coverage available? Please explain your answer giving examples where possible.

We are not sure if this question relates to national pools or to the co insurance/ Co-reinsurance practices. We shall provide two answers because if we consider that the BER provides more benefits for the market than issues, we consider also that most of the National pools have rules restricting competition.

If we consider the national pools (or pan European pools), our position is that some pools are really needed in some areas of activities (shipping, nuclear, aviation sector,) where the traditional insurance market is not interested with. But we observe also that pools which have been put in place to solve temporary market problems (Terrorism), in using at the end traditional market capacities or to solve specific issues (Natural events or environmental impairments) are quite often kept in place with a monopoly position, with specific rules allowing not competition and used as national barriers against FOS.

If we consider the Co-Insurance /reinsurance practice it is obvious that this practice is the only way to find the huge financial capacities that we need in the Business Insurance sector. Our needs are in hundreds of Millions Euros and no market player in the world (not Europe only) can meet these needs. It is also obvious that to get many players providing the capacity you need you have to propose a wording acceptable by the players and the more players you need, the more wording amendments/restrictions you need to make to make it attractive. It must be stated here that in the Business Insurance Industry most of the buyers are in fact "selling" their company and its risk profile, including the insurance conditions and wordings, to the insurance underwriters. As such, Insurance buyers are quite pleased to start from some of standardized conditions, amended with specific extensions to facilitate the discussion.

4. To what extent do you consider that co-insurance (co-reinsurance) groups (“pools”) can lead to the standardisation of policy conditions and hence limited availability of customised products? Please explain you answer.

Please refer to the question N°3 above

5. (i) Where you have experience of buying insurance in more than one EU Member State, where you consider the market is working well do you consider that co-operation under the BER influences this? Please explain you answer.

The Business Insurance is commonly involving many states with pan european players on both side (insurers and buyers). We do not see any competition problem and the market is working well.

6. In you experience, are you aware of whether cooperation under the BER has resulted in lower or higher premiums for you? Please explain how you consider premiums have been affected and why. Please also specify the Member State(s) to which your comments relate.

We have not seen any kind of influence on our members' premiums due to cooperation under the BER for the last ten years.

7. Have you experienced any difficulties in getting a large risk covered in another EU Member State because of co(re)insurance pools created on a national basis? If so please explain the context and reason.

Please refer to the question N°3 about National pools. Most of the Terrorism and Natural Catastrophes pools are concerned

8. Would you advocate the development of alternative instruments (such as the regular publication of loss statistics in a public website or more portability of risk information when customers switch insurers) in case the BER would not be renewed? If yes, which ones and why?

If the BER was not renewed it would be absolutely needed to put in place some alternative instruments. We see there a potential risk of useless bureaucracy to replace something that does not appear to be a problem to the users that FERMA represents.