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EU – Proposals for EU-wide rights for shoppers

On 8 October 2008, the European Commission adopted a proposal for a Directive on Consumer Rights that aims at boosting consumers' confidence to shop on the Internet and in the streets all across the EU and at the same time at cutting red tape which is holding back business within national borders – denying consumers more choice and competitive offers. The proposed Consumer Rights Directive simplifies four existing EU consumer rights directives, i.e. unfair contract terms, sales and guarantees, distance selling and doorstep selling, into one set of rules. It will guarantee consumers, wherever they shop in the EU, clear information on price and additional charges and fees before they sign a contract. It will strengthen consumer protection against late delivery and non delivery, as well as setting out tough EU-wide consumer rights on issues from cooling off periods, returns, refunds, repairs and guarantees and unfair contract terms. A standard set of consumer contract terms will cut compliance costs substantially - by up to 97% for EU-wide traders. The proposed directive upgrades existing consumer protection in key areas where there have been large numbers of complaints in recent years - such as pressure selling. It adapts the legislation to new technology and sales methods.

Financial services are covered by the new Directive's rules on unfair contract terms and mortgages or other loans on real estate negotiated at the consumer's home by the rules on off-premises sales. For the rest, there is an exclusion because there is special separate legislation in place (for example, the Distance Marketing of Financial Services Directive of 2002 applies to distance sales of financial services; the Consumer Credit Directive applies to credit agreements concluded at doorstep).

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EU – MEPs adopt resolution on motor insurance

On 2 September 2008, the European Parliament adopted by a large majority a resolution on certain issues relating to motor insurance, further to the European Commission's report issued on 25 June 2007 and addressed to the European Parliament and the Council regarding the effectiveness of claims representatives in settling claims, and insurance cover for legal expenses (see BIPAR Press no 3/2007). MEPs consider that the principle of subsidiarity should be applied and that there is no need for the harmonisation of national penalty provisions. Member States are called upon to ensure that in the event of non-compliance with the three-month deadline for submitting a reasoned reply to the claim for compensation or a reasoned offer of compensation, the penalties introduced are effective. MEPs reiterate the importance of boosting citizens' confidence in the functioning of the claims representative system by promoting it through public campaigns and by other appropriate measures. MEPs consider that, in relation to motor third party liability insurance, the negative effects of introducing a system of compulsory cover of legal costs in motor third party liability insurance would outweigh the potential benefits. Member States, especially the new ones, are invited to make consumers aware that they can take out a voluntary insurance for legal expenses. Companies must inform consumers that there is an option for legal expenses insurance when signing up to motor insurance.

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EU – *Cross-border e-commerce fails to take off*

According to the Eurobarometer surveys on businesses and consumer attitudes to cross-border shopping, published on 2 October by the European Commission, even if e-commerce is taking off at national level, cross-border e-commerce is failing to keep pace. Currently, 75% of retailers sell only to domestic consumers, but the reports show that if rules were harmonised, almost half of these (34% more) would be interested in selling cross-border. Cross-border shoppers generally consist of younger, well-educated people in higher professional positions with internet access at home. Cross-border shopping still does not sufficiently engage the larger "middle" group of consumers. It seems to be the same for companies: larger companies are warming to the idea, but there is still a larger middle group that have not fully taken on board the business potential that cross-border sales offer. The level of cross-border advertising is still relatively limited (21% of retailers advertise cross-border) and most consumers (55%) have never come across such advertising. Data gathering was carried out in February–March 2008 amongst over 26.000 consumers and 7.200 businesses in the 27 EU-countries and Norway.

Both surveys are available in English only on the following website:
http://ec.europa.eu/consumers/strategy/facts_eurobar_en.htm

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EU – *Assessment of the use of E-procurement in Europe – Code of Best Practice for SMEs*

On 23 October 2008, the European Commission launched an online survey to find out more about the actual experience of businesses and public purchasers with electronic public procurement. This will provide essential information for an evaluation which will assess how well the objectives of the "Action Plan for the implementation of the legal framework for electronic public procurement", adopted by the Commission in December 2004, have been achieved. Public procurement is a key sector of the EU economy accounting for about 16% of GDP. Modernising and opening up procurement markets across borders – including through the expansion of e-procurement – is crucial to Europe's competitiveness and for creating new opportunities for EU businesses. Parties interested in participating in this survey can send an email to: survey.eproc@it.ey.com until 18 December 2008.

Within the framework of the Small Business Act (SBA), the European Commission has drawn up the "European Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts". SMEs are the backbone of the EU economy. This Code aims at helping Member States and contracting authorities to change their procurement culture and to make it more SME-friendly. It will deal with solutions to the main difficulties reported by SMEs: overcoming difficulties relating to the size of contracts, ensuring access to relevant information, setting proportionate qualification levels and financial requirements, alleviating administrative burden, giving sufficient time to draw up tenders ...

This is the first time that the relevant procurement rules and practices are gathered in a single document allowing Member States and contracting authorities to take advantage of useful experience gained in other Member States.

The "Code of Best Practices" is available in English on the following website:
http://ec.europa.eu/internal_market/publicprocurement/key-docs_en.htm

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EU – Report on growing role of private pensions

On 20 October 2008, the European Commission released a new study entitled “*Privately managed pension provision and its contribution to adequate and sustainable pensions*” that confirms the trend towards an increased role for privately funded pension provision in EU countries and the importance of analysing its impact on future pension levels. Depending on their role within the overall system, low coverage in supplementary pensions (together with breaks in contributions) can become a cause of concern for future pension levels, in particular for those most at risk (women, the young, lower educated, low-paid workers). The study identifies large variations in coverage and contribution levels between EU countries, reflecting the diversity of schemes in place. The analysis aims to help EU countries learn from different national experiences under the “open method of coordination” (the EU's system of common objectives, reporting and exchange of best practice).

The Commission's study is available in English only on the following website:
http://ec.europa.eu/employment_social/spsi/adequacy_sustainability_en.htm

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EU – Commission acts to ensure that Member States implement EU laws

On 16 October 2008, the European Commission decided to refer Germany, Hungary, Luxembourg, Poland, Sweden and the United Kingdom to the European Court of Justice over non-implementation of the Directive on recognition of professional qualifications. This Directive, which consolidates in a single piece of legislation fifteen directives, promotes flexibility on the labour markets, further liberalises the provision of services, makes the recognition of qualifications more automatic and simplifies administrative procedures. It aims to facilitate mobility within the internal market for qualified people moving to another Member State either to provide a service or to settle there permanently. The deadline for transposition of Directive 2005/36/EC was 20 October 2007. Insurance intermediaries can benefit from this Directive in situations not covered by the Insurance Mediation Directive (IMD), both with a view to temporary provision of services and in the case of permanent establishment.

The Commission will also refer Belgium, the Czech Republic, Greece, Poland and Portugal to the Court over non-implementation of the Directive on reinsurance. Directive 2005/68/EC on reinsurance fills a gap in EU insurance legislation, which in the past did not regulate specialised reinsurers (i.e. insurers who do not conduct direct insurance). The lack of an EU regulatory framework for reinsurance resulted in significant differences in the level of supervision of reinsurance undertakings between different EU Member States and a lack of a level playing field. The regulatory framework of the Directive is based on the existing prudential regime of the non-life Insurance Directives and extends to reinsurance undertakings, the system of home state control and the single licence principle. The transposition deadline for the Directive was 10 December 2007.

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France – *Life insurance: duty of advice to be redefined*

In the framework of the new French law on the modernisation of the economy, which was adopted on 5 August 2008, the French government has been authorised to act via edict to modernise the selling of investment products, the aim being to subject every professional to the duty of advice, whatever the nature of the investment proposed (financial products or life insurance). Employees of insurance companies and mutuals will be included in this obligation to advise, they will have to specify the customer's demands and needs as well as the underlying reasons for any advice given to the customer on a given insurance product. The draft edict also stipulates that when an intermediary – falling into the different categories defined in the French Code of Insurance - intervenes in the conclusion of a contract, the latter will be subject to the duty of advice in place of the company. Agreements between insurers and intermediaries will be drawn up in order to formalise that the insurer will put all the contractual documents needed at the disposal of the intermediary so that the latter can exercise his duty of advice.

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France – *Competition agency's inquiry on insurance brokers*

France's competition agency (DGCCRF – *Direction générale de la concurrence, de la consommation et de la répression des fraudes*) has published a summary of the inquiry it carried out on insurance brokers in the second half of 2007. It warns that brokers may not offer the best deals to their clients as they are economically too dependent on insurers. The DGCCRF questions brokers' independence: "*Brokers have a tendency to direct their clients to insurance companies with whom they have the largest share of their turnover and/or their biggest margins. They often do not seek alternative quotes once one of the insurance companies with whom they have an agreement has made a quotation*", it says. The French Association of insurance brokers (CSCA, member association of BIPAR), which represents 1,100 brokerages in France, rejected the DGCCRF's conclusions. CSCA declared that the points raised by the competition agency were already known by the profession and that concerning the issue of transparency, campaigns had been carried forward to make customers aware of all economic links between a broker and the insurers he/she works with. It said that, despite the consolidation in the French broker market and the resulting limited number of products that can be offered to clients to insure some risks, "*brokers continued to try to offer their clients the best possible coverage at the best conditions*". As for the payment of commissions to brokers by insurers, the CSCA stated that it does not constitute, in its opinion, a lack of independence, if commissions are calculated as a percentage of the premium charged by the provider.

A summary of the DGCCRF study as well as a copy of the CSCA press release are available in French at the BIPAR Secretariat.

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France – *Work of insurance agents' spouses officially recognised*

On 1 July 2007, the professional status of "assisting spouse" was officially introduced in France, and in particular within the profession of insurance agent, thanks to the commitment of a woman, Mrs Christiane Delacoux. After passing the same training as insurance agent as that of her husband, Mrs Delacoux fully committed herself to the development of the agency which her husband opened in Nîmes in 1989. Since then, she has become the "right-hand woman" of her husband. As Vice-President of Unacopl, the French national association of liberal professionals' spouses, she fought to obtain recognition of the status of "assisting spouse". On 20 October 2008, Mrs Delacoux was awarded the prize of "Mrs Business of France" for her achievement.



Christiane Delacoux

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Germany – *Grim outlook for German insurers*

According to German consultants Steria Mummert and the FAZ Institute (Institute for management, market and media information), German insurers have a negative outlook regarding market growth. 100 top managers of German insurers were polled: only 21% expect rising volumes in the years to come (compared to 41% in 2006). The current pessimistic outlook can be explained by new laws, especially the new insurance contract law and the forthcoming Solvency II rules, the largely saturated property/casualty market, the credit crisis and the German health reform. 84% of those polled see entering partnership projects with brokers over the next years as a vital way out of this situation. Sales of policies via banks were named as being important by 70% of those questioned. 66% said that they thought they would invest in sales through other insurers. 34% are expected to invest in sales via motor manufacturers. On the other hand, retailers have declined in importance as a distribution channel.

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Germany – *AXA signs cooperation agreement with eBay*

AXA is much criticised by German agents for having signed a cooperation agreement for 30 months with the internet auction house eBay. The partners are offering a joint internet platform with information on AXA's policies, which can also be bought online. eBay clients will be proposed an insurance cover that fits the product they have just purchased. AXA aims at getting closer to customers and at providing them with insurance solutions that meet their individual needs. The BVK, the German Association of insurance intermediaries (member association of BIPAR), says that customers do not get appropriate advice and do not know if they are taking out the right insurance policy. It added that this kind of move "would destroy the agents' confidence in the company and degrade high-value ambitious insurance policies to the status of an impulse buying product". Moreover, AXA evades the Insurance Mediation Directive requirements.

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Germany – *Allianz introduces a new administrative model for its agents*

Allianz Germany has been harshly criticised by organisations representing Allianz agents for trying a new administrative model. It is setting up new limited companies that will take over agents' administrative work – from making appointments to the keeping of financial records and looking after websites. The allocation of clients to agents and the sale of simple products will also be organised in those new companies. Allianz's objective is to allow its agents more time for actual selling, but the Allianz Agents' Association said: "*We don't think much of it and we were not consulted. We are independent sales agents. We cannot let Allianz make the decisions for us.*" The answer to the question as to whether agents will lose their status as self-employed and become simply staff is not yet known. This new administrative model is likely to tarnish further the relationship between Allianz and its 10,500 agents. In February of this year, agents won a court case against Allianz which wanted to reduce commissions for motor insurance (see BIPAR Press no 2/September 2008).

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