The Consumer Voice in Europe

CONSULTATION PAPER ON DELEGATED ACTS OF THE INSURANCE DISTRIBUTION DIRECTIVE

BEUC response

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Why it matters to consumers

Consumers often have insurance policies that, on an annual basis, cost them the equivalent of a full month's salary, but still struggle to make a good choice in this overly complex market. While the Insurance Distribution Directive has improved consumer protection, it is crucial to get the way the directive is implemented in Member States right and for it to work in practice.

General Comment

BEUC welcomes EIOPA's draft rules which sets out reasonable conditions to ensure that the enhanced consumer protection framework, as coined by the Insurance Distribution Directive (IDD), is being put to practice.

Product Oversight and Governance (POG) requirements are a welcome step towards preventing consumer detriment in the first place. We would like to stress that the POG rules covering for example the target market, product testing and monitoring should be detailed and cover all insurance products under the IDD, including non-life insurance policies.

Additionally, we recommend that POG rules should be publicly available, for the sake of transparency and enforcement.

We strongly support EIOPA's stance on scrutinising very specific types of **inducements**, which often cause detriment to consumers. The draft rules do not include an overall prohibition of inducements, but give more guidance on the clear IDD provision that inducements don't have a detrimental impact on the quality of the relevant service to the consumer.

In that perspective, this approach explicitly targets specific types of remuneration schemes. Schemes where, for example, the distributor receives substantial additional benefits on reaching certain sales targets, or where distributors receive excessively high commissions, do not align with the obligation to act in the best interest of consumers.

We therefore strongly back EIOPA's ambition to reduce the mis-selling of insurance-based investment products in order to restore consumer's trust in this sector.

We suggest that a **delegated regulation** is preferable to ensure consistent implementation across member states.

Question 2 Do you agree that the policy proposals above provide sufficient detail on product oversight and governance requirements?

BEUC agrees with the policy proposals on POG requirements. Obliging firms to take the consumer interest into account at every stage of the product life cycle could give them an impetus to create and sell products which truly address consumer needs.

POG rules covering for example the target market, product testing and monitoring should be detailed sufficiently and should cover all insurance products under the IDD, including non-life insurance policies.

Question 3 Are there any further arrangements, except those outlined below, which you would consider necessary and important?

POG requirements should not become a mere tick-box exercise for compliance officers. To this end, there should be more transparency and a stronger involvement of national supervisors and EIOPA.

Additional requirements should therefore include the following:

- The requirements for internal reviews should be detailed further (on content & frequency) and require an external check, e.g. by an auditor.
- For the sake of transparency, all POG requirements should be made publicly available.
- National supervisors should track these POG requirements and check if they prevent inappropriate products from being marketed to consumers. Their findings should be reported to EIOPA.
- If certain product classes are prone to systematic mis-selling practices, according to national supervisors' reviewing of POG requirements, EIOPA should consider introducing a regulatory pre-approval process for these kinds of products.

Furthermore, remedial action is a key component of POG requirements. Therefore, EIOPA should adopt stricter guidelines. When manufacturers become aware that products are not sold as envisaged, or other problems arise, the manufacturer should suspend the selling of this product via the distributor(s) involved.

Question 8 Do you agree with the proposed review obligations for manufacturers and distributors of insurance products?

BEUC agrees with EIOPA advice but is also in favour of further guidance on this points, regarding specific criteria or parameters which should be monitored, such as consumer complaints and early contract terminations.

Question 9 Are there any other elements which you could consider appropriate in order to specify the regulatory requirements on conflicts of interest as laid down on Article 27 and Article 28 IDD?

Regarding the identification of conflicts of interest, we highlight the situation described in 2.c (p45), where a firm receives or will receive from a person other than the consumer a monetary or non-monetary benefit in relation to the services provided. BEUC urges EIOPA to keep this situation in its draft, as this is a major potential source of consumer detriment.

Furthermore, we welcome EIOPA's stance that conflicts of interest should first be prevented or mitigated and that the mere disclosure of conflicts of interest should only be a measure of last resort.

Question 11 Do you agree with the proposed high-level principle to determine whether an inducement has a detrimental impact on the relevant service to the customer?

BEUC strongly backs EIOPA's draft on inducements.

Today, EU consumers are not getting the advice they really need when looking to better invest their savings. Especially in the retail investment area, where the distribution of insurance-based investment products is very common, the low quality of advice has been documented widely, both by our members[1] and by public authorities[2]. Third-party commissions or in-house sales incentives can steer consumers towards overly complex and expensive products, often not suitable for their risk profile.

This said, the EIOPA draft does not introduce an overall ban of inducements, but gives more guidance on how to cope with the clear level 1 provision[3] that they don't have a detrimental impact on the quality of the relevant service to the consumer.

In that perspective the draft warns explicitly for specific types of inducement schemes and BEUC fully supports all types of commission identified in this regard.

[1] Test-Achats https://www.test-aankoop.be/action/pers%20informatie/persberichten/2014/mijn-bankier-adviseur-of-verkoper
VZBV http://www.vzbv.de/pressemitteilung/qualitaet-von-finanzberatungen-unzureichend

[2] http://ec.europa.eu/consumers/financial_services/reference_studies_documents/docs/investment_advice_study_en.pdf

[3] Art 29(2)

Please find here more detailed comments on some examples provided in the draft advice, p54.

a) *The inducement encourages the insurance intermediary or insurance undertaking carrying out distribution activities to offer or recommend a product or service to a customer when from the outset a different product or service exists which would better meet the customer's needs*

➔ This example is very clear; if there is a product which would be better for the consumer but which is not offered because it pays less commission, that would fall foul of the detriment rules. In general, poor value products should not be sold purely because of advantageous commission deals.

b) *The inducement is solely or predominantly based on quantitative commercial criteria and does not take into account appropriate qualitative criteria, reflecting compliance with the applicable regulations, fair treatment of customers and the quality of services provided to customers*

➔ BEUC supports this principle, which should avoid that inducement schemes are purely based on sales volumes and instead reflect on proper treatment of consumers.

c) *The value of the inducement is disproportionate or excessive when considered against the value of the product and the services provided in relation to the product*

➔ BEUC strongly supports this principle. **Excessive commissions** fees are very likely to cause mis-selling of financial products and can never be aligned with the obligation to act in the best interest of consumers. The Austrian consumer organisation AK documented a commission fee of about 8 % of the total premium amount of a life insurance, running to more than €20,000 for an individual consumer. The insurer was brought to court[4].

There is currently a lack of understanding about how exactly these inducement schemes between manufacturers and distributors are designed. Unfortunately, the IDD has missed an opportunity here, which is not to oblige firms to disclose to consumers the amount of commission insurers receive (instead the IDD only obliges to disclose the 'nature' of the commissions).

d) *The inducement scheme entails any form of variable or contingent threshold or any other kind of value accelerator which is unlocked by attaining a sales target based on volume or value of sales*

➔ BEUC strongly supports this principle dealing with **contingent commissions**. Any inducement scheme where the distributor receives substantial additional benefits upon reaching certain **sales targets** is impossible to align with the obligation to act in the best interest of consumers. It would also have a detrimental impact on the quality of the relevant service to the customer. BEUC would like to insist that both national authorities and EIOPA play an active role in enforcing the criteria set out above, in order to tackle both the wide mis-selling and lack of trust in the distribution of insurance-based investment products.

4 https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Justiz&Dokumentnummer=JJT_20100317_OGH0002_0070OB00013_10B0000_000

Question 13 To which extent are inducements which are considered bearing a high risk of detrimental impact part of existing business models and distribution models?

As stated already in our response to question 11, there is currently a lack of understanding of how exactly these inducement schemes between manufacturers and distributors are designed. We therefore invite EIOPA to further investigate these practices.

END

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