



## Statement by Insurance Europe at the 21 June European Parliament IMCO committee public hearing on the European Commission proposal for a European services e-card

*Insurance Europe is the European insurance and reinsurance federation. Through our 35 national insurance association members, we represent around 95 percent of Europe's total premium income.*

### **Insurance is not a barrier**

Insurance Europe does not share the European Commission's premise that insurance is somehow a barrier to the provision of cross-border services, which has resulted in the insurance-related provisions in its proposal for a Regulation "introducing a European services e-card and related administrative facilities".

It is unclear on what evidence the Commission has based this assumption, as its consultations and workshops have failed to provide concrete examples to support this misconception. In fact, no stakeholder present at the Commission workshops in which Insurance Europe took part has said that accessing professional indemnity insurance was a concern for them. The impact assessment accompanying the Commission proposal also fails to provide concrete proof that insurance is a barrier.

In fact, cross-border insurance is available and offered by insurers on a daily basis across Europe. Service providers can obtain cover either through a broker or directly through their domestic insurer:

- Large insurers tend to follow their client cross-border.
- Smaller insurers tend to work through their own networks. These networks allow for the policy to be issued locally through a partner insurer.

Insurance Europe therefore believes the problem that the Commission is trying to address is not actually related to insurance availability. It is likely to be instead the lack of available information on professional insurance requirements in different member states. Although insurers indeed provide this information to their clients, they cannot address the wholesale problem throughout the EU, as this falls within the remit of member states.

In any case, and notwithstanding the Commission's motivations behind the proposal, the insurance provisions would not help companies to work across borders.

### **The insurance provisions would not work in practice**

The **first provision** (Article 5 of the Regulation) is a requirement for insurers to provide a standardised certificate of professional indemnity insurance. According to the Commission, the aim of such a measure would be to help the host member state authority a) verify that the service provider has insurance and b) assess whether the cover is also suitable for their market.

A standardised certificate of insurance would not achieve this.

The first reason is related to the very nature of professional indemnity insurance:

- Policies vary greatly, even within a single member state, depending on the profession being covered.
- Policies tend to be tailor-made to the client.

The second reason relates to differences between member states:

- Each member state has different insurance and professional requirements, which directly influence their needs in terms of proof of insurance.
- The same insurance terms can have different meanings depending on the member state.

In light of this huge diversity across the EU, it would be extremely difficult to develop a practical, workable, harmonised certificate applicable at EU-level for all business sectors. More importantly from the perspective of the e-services card proposal, such a certificate would not meet the goal of helping host member states assess whether a service provider complies with local insurance requirements.

In addition, introducing an EU-level standardised certificate would not take into account certificates that sometimes exist at national level and that have been implemented at great cost to both insurance companies and member states. It would merely add a layer of unnecessary administrative burden. This is another issue that has not been properly examined throughout the consultation process, nor is it reflected in the Commission's impact assessment.

The **second provision** (Article 11) is a requirement for insurers to provide a standardised claims history statement. The aim of this statement is to help insurers in host member states assess the risk a company poses when working in their market. It would also supposedly help an insurer get an idea of an unknown potential client's reputation/behaviour before deciding whether to offer cover.

From an insurance perspective, a track record detailing a service provider's claims in one member state will likely be useless in another. This is because the risks, liability rules and litigation culture vary widely between countries. The host insurer, who will use local factors and circumstances to calculate premiums, will not find a claims history statement from another member state relevant when underwriting a policy.

Besides, the voluntary nature of the request for a track record from the service provider could lead to systematic discrimination against service providers from some member states. For example, it could be argued that service providers from a member state with a stricter liability regime, or with a more litigious culture with a higher likelihood of negligence claims being brought against them, are at a disadvantage compared to a service provider from another member state with a different system. It follows that the track record would only be requested when it places the service provider in an advantageous position due to the differences between member states.

Finally, **the third insurance-related provision** in the proposal (Article 12) is an obligation for insurers to take account of this track record and to justify or not its admissibility. This is of particular concern to insurers, as it would unduly restrict their freedom to assess risks when underwriting policies and contravene their obligation under Solvency II to objectively evaluate risks.

### **Extremely costly**

Insurance Europe wishes to stress that despite delivering no value to companies that wish to work across borders, or indeed to host member state authorities, these proposals would also be extremely costly and difficult for insurers to implement; IT systems would have to be overhauled to comply with new formats and processes would then need to be put in place to feed information into those systems.

Ultimately, those costs will be passed on to policyholders via their premiums, despite delivering no benefit to them whatsoever.

Another possible consequence could be that a number of insurance companies not willing or able to comply with the costs of implementing such a new system might decide to stop offering professional indemnity insurance coverage.

Therefore, not only would the insurance-related provisions not help cross-border provision of services, they could in fact achieve the opposite, and create the very problem they are trying to address.



## **Conclusion**

In conclusion, Insurance Europe reiterates that insurance companies are willing to contribute to the functioning of the EU single market by offering solutions that help their clients cross borders. Insurers do this on a daily basis, in a number of ways.

The reason why this proposal is so concerning to our sector is that, in our opinion, its provisions:

- Are a response to a problem that has not been properly identified.
- Would help neither our clients wishing to cross borders, nor host member state authorities.
- Would be hugely costly and complicated to implement and comply with.