

## **INSURANCE EUROPE RESPONSE TO EC CONSULTATION ON A SERVICES PASSPORT**

### **B.6 - Questions on Insurance – Perspective of service providers**

#### **II - Need for action and potential policy options**

**91. Do you consider that the difficulties in obtaining adequate professional indemnity insurance coverage for cross-border activities need to be addressed at EU level?**

- Those difficulties need to be addressed at EU level
- Those difficulties need to be addressed at national level
- Those difficulties need to be addressed both at national and EU level
- Those difficulties should be left to the markets
- I do not know
- Other

Please specify:

*500 character(s) maximum*

*No. Q91-94 presuppose that it is difficult for service providers to obtain adequate cross-border insurance. However, Insurance Europe is not aware of any evidence to support this allegation. Insurers make use of freedom of establishment (FOE) or freedom of provision of services (FOS), as well as "Europe-wide networks", to help service providers access local cover. Insurance intermediaries also operate through such networks to assist insurers with understanding and serving local markets.*

**92. Which kind of action do you deem necessary?**

- It would be necessary to address the administrative difficulties
- It would be necessary to address the legislative discrepancy between Member States through regulatory intervention
- It would be necessary to take action both at administrative and at regulatory level
- I do not know
- Other
- Not applicable

Please specify:

*500 character(s) maximum*

---

*There is no need for regulatory action as regards professional indemnity insurance. Risk profiles vary between member states due to diverging liability legislation, thus, insurance needs to also vary between member states. Rather than pursue regulatory action, the EC should encourage and promote the sharing of information about national requirements for service providers wishing to go cross-border so that they can become aware of the type of insurance cover they need (see answer to Q93).*

**93. Which of the following actions do you deem necessary?**

- Standardisation of the information attesting insurance coverage, e.g. through a standardised insurance certificate building on the Insurance Directive
- Using existing points of contact in Member States, to coordinate access to insurance for cross-border service providers
- Designing dedicated websites, which may include for instance electronic comparison tools for insurance policies, thus enabling service providers to compare coverage, fees etc.
- I do not know
- Other
- Not applicable

Please specify:

*500 character(s) maximum*

*Information about national insurance requirements can be useful for service providers wishing to enter another market. This information would be better facilitated through the Points of Single Contact (PSCs). For example, the PSCs could provide information on the types of cover required in other markets as well as the features that cover should take to comply with local compulsory insurance regulations. This would assist both insurers and service providers.*

**94. Which of the following actions do you deem necessary?**

- Clearly stating in specific EU secondary legislation that professional indemnity insurance obligations need to comply with the principle of proportionality
- Harmonizing minimum conditions of access to insurance (e.g. insured sum, insured risks, exclusions from cover, territorial scope) in all Member States
- Fully harmonizing professional indemnity insurance for the activities in the scope of the services passport
- I do not know
- Other
- Not applicable

Please specify:

*500 character(s) maximum*

*Insurance Europe does not believe that any of the above options are necessary or appropriate, as they do not take account of the factors affecting product liability risk (eg liability legislation, judiciary rules and compensation awards). Rather than help facilitate cross-border movement, harmonisation of insurance conditions or activities*

would render the provision of professional indemnity insurance more complicated and limit the freedom to design products, thus impeding product diversity.

### III - Impacts

#### B.7 - Questions on Insurance – Perspective of insurers

**97. When a new client coming from another Member State approaches you in order to get professional indemnity insurance in your Member State, do you take into account his track-record in his home Member State when assessing his risk profile?**

- We duly take into account the previous experience of our clients acquired in other Member States, in order to determine their risk profile and the corresponding premium
- We duly take into account to a limited extent the previous experience of our clients acquired in other Member States
- We cannot take into account the previous experience of our clients acquired in other Member States
- Other
- Not applicable

Please specify:

500 character(s) maximum

*Insurance Europe (which does not underwrite insurance) understands that most insurers take into account the loss history in another country when setting terms. This being said, in a free market economy, insurers must retain the freedom to assess and price individual risks according to their own underwriting principles. This enables insurers to address their customers' needs or preferences and encourages competition, resulting in more choices and opportunities for service providers.*

**98. When a client coming from your Member State approaches you in order to get professional indemnity insurance for activities in the territory of another Member State, are you able to provide insurance coverage for those activities?**

- No, we are not able to assess risk in activities provided in another Member State
- No, we refer the client to a broker
- No, we refer the client to one of our subsidiaries in the other Member State
- No, we refer the client to professional associations in the other Member States to help them finding coverage in that Member State
- Yes, but I assess risk in accordance with the criteria applicable in my own Member State
- Yes, and I assess risk in accordance with the criteria applicable in the other Member State

- Other  
 Not applicable

Please specify:

*500 character(s) maximum*

*Many insurers provide cross-border professional indemnity insurance on a daily basis, taking into consideration the relevant regulatory, risk and socio-economic factors. Some will use subsidiaries whereas others use European-wide agreements or FOE.*

**99. Do you provide a document on the track-record of a client who intends contracting a new insurance policy in another Member State to cover his activities on the territory of that Member State?**

- Yes, upon request and directly to the client  
 Yes, upon request of the other insurance company  
 No, as this information is confidential  
 No, as the provision of such data would be too costly  
 Have never been requested to provide such information  
 Other  
 Not applicable

Please specify:

*500 character(s) maximum*

*While there is no standard approach, it is common practice for insurance companies to provide a client (possibly via a broker) with a report on that client's claims experience/track record.*

**100. Do you offer insurance products adapted to the duration of the services provided by your client (e.g. short time insurance products for temporary cross-border services), or do you issue insurance policies only for longer duration (e.g. one year or more)?**

- We issue insurance products adapted to the (limited) duration of the services provided by our clients  
 We issue insurance products of longer duration, because short time products would be too costly  
 We issue insurance products of longer duration, because there is no sufficient demand for short term contracts  
 The legal framework does not allow for enough flexibility in setting the duration of our insurance products  
 Other  
 Not applicable



Please specify:

*500 character(s) maximum*

*Both short-term and yearly policies are available, though insurer practices vary between countries. If a service provider wishes to get a temporary policy extension, yet has no legal entity in the host country, it is routine to extend the home policy for the duration of the work. The main issue is whether the extended cover is accepted by national authorities. When a legal entity is established in the host country, it is common for a renewable annual policy to be issued in the host country.*

**Please feel free to add general comments on this section:**

*1000 character(s) maximum*

*Due to the heterogeneity of cultures, safety standards and liability regimes, service providers sometimes lack knowledge of applicable insurance obligations in the case of cross-border activity. For this reason, Insurance Europe supports providing service providers with better access to information about:*

- (1) the professional requirements applicable in the market in which they wish to operate; and*
- (2) how to obtain the type of insurance they need to cover their liabilities under national and regional law as well as professional association requirements.*

*As discussed in the answer to Q93, this could best be achieved through better use of the Points of Single Contact (PSCs), which could be instrumental in assisting consumers with understanding the professional indemnity insurance requirements in another market. This being said, the PSCs should not be viewed as a guarantee of cover for cross-border services.*

## **B.9 - General questions on the scope of the actions**

**Please feel free to add general comments on this section:**

*1000 character(s) maximum*

*In insurance, product design, risk pricing, claims-handling and customer support are influenced by local market culture and consumer standards as well as local regulatory conditions. Professional indemnity insurance is closely tied to national liability legislation (rules of causation, proof of loss and liability determination) and cost-related factors (cost of medical procedures for injury or loss of income due to disability). A decision to enter a foreign market also requires an extensive understanding of that market. Insurers may consider that they need a local presence to offer appropriate customer service and that this makes cross-border transactions less than optimal.*

*Considering the above, changes to administrative or regulatory procedures are not guarantees that insurers will be more likely to follow their customers into another member state. Their commercial policy, as well as ability to cover foreign risks, will remain factors in their decisions to offer cross-border cover.*