

EC proposal for a European services e-card: the position of Europe's insurers

The three insurance-related provisions (Articles 5, 11 and 12) should be removed from the Regulation

The European Commission is proposing a services e-card that would allow services providers wishing to operate abroad to use an electronic, EU-level procedure to complete the formalities required.

European insurers support strengthening the EU single market in ways that benefit companies and the economy. However, the EC proposal in general, and the three insurance-related provisions in particular, will not do this. The 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 administer

Insurance is not a barrier

The EC's consultations and workshops failed to provide examples to support its misconception that insurance is somehow a barrier to the provision of cross-border services. No service provider at any of the Commission workshops that Europe's insurers attended said that accessing professional indemnity insurance was a concern. The impact assessment accompanying the Commission proposal also fails to provide proof that insurance is a barrier.

! 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 clients cross-border.
- Smaller insurers tend to work through networks that allow a policy to be issued locally through a partner insurer.

The potential problem that the Commission is trying to address is actually not related to insurance availability, but rather difficulty getting information on professional insurance requirements in different member states. Although insurers provide this information to their clients, it is the responsibility of the EC and member states to address the wholesale problem throughout the EU.

The insurance provisions would not help companies work cross-border

Article 5 of the Regulation requires insurers to provide a standardised certificate of professional indemnity insurance. The Commission's aim is to help the host member state authority a) verify that the service provider has insurance and b) assess whether the cover is suitable for their market.

! FACT A standardised insurance certificate would not help companies work cross-border because of
a) the nature of professional indemnity insurance:

- policies vary greatly, even within a member state, depending on the profession covered
- policies tend to be tailored to the client


b) and differences between member states:

- each state (or sometimes region) has different insurance and professional requirements, which affect their needs in terms of proof of insurance
- insurance terms have different meanings in different states

It would be extremely difficult to develop a practical, workable, harmonised certificate applicable at EU-level for all business sectors. More importantly, such a certificate would not meet the goal of helping host member states assess whether a service provider complies with local insurance requirements.

Introducing an EU-level standardised certificate would add a layer of unnecessary administrative burden. This issue was not properly examined during the consultation, nor reflected in the Commission's impact assessment.

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.

 **FACT A track record detailing a service provider's claims in one member state is likely to be useless in another because risks, liability rules and litigation culture vary widely. The host insurer will use local factors to calculate premiums and will not find a claims history statement from another member state relevant.**

Moreover, harmonising such a document would be almost impossible, given the vast differences between countries, risks and liability regimes.

Article 12 is an obligation for insurers to take account of this track record and to justify its admissibility. This is of particular concern.

 **FACT The provision would unduly restrict insurers' freedom to assess risks when underwriting and would contravene their obligation under the EU Solvency II Directive to objectively evaluate risks.**


The Commission has said its inspiration for Articles 11 and 12 is drawn from the Motor Insurance Directive. However, the Motor Insurance Directive does not provide for harmonised track records, even though the markets for motor insurance are far more harmonised at EU level than for professional indemnity insurance.

In addition, the Directive does not oblige insurers to demonstrate how such a statement is taken into account in calculating premiums, as suggested by Article 12 of this proposal.

Extremely costly

Despite delivering no value to companies that wish to work across borders, or indeed to host member state authorities, these proposals would be extremely costly and difficult to implement. IT systems would have to be overhauled and new processes introduced. Ultimately, those costs would translate into higher premiums.

There could be another consequence; insurers not willing or able to comply with the new rules might stop offering professional indemnity insurance coverage altogether, thereby reducing the offer of such products.

 **FACT The insurance-related provisions would not help cross-border provision of services, and could actually result in insurance being more expensive and less available.**

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