BIPAR Press

In this issue:

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Insurance cold calling under the spotlight in France

Insurance cold calling is once again on the radar screen of the French Prudential Supervision and Resolution Authority (ACPR). At the beginning of February 2020, the ACPR sanctioned Viva Conseil, a broker specialised in distance selling, with a reprimand and two months of business interruption for dubious cold calling practices from its Moroccan branch.

In September 2019, five consumer associations already called for a ban on this practice in the insurance sector in France. Two months later, the Financial Sector Consultative Committee (CCSF), which brings together representatives of insurance, banking, consumers, social partners and Parliament, adopted an Opinion on cold calling and distance selling. Planète CSCA, a French member association of BIPAR, had fully associated itself with this CCSF Opinion (see BIPAR Press of December 2019). The latter is a guide to good practice and advocates two-step selling: consent, which must be established in writing, can no longer be collected at the time of the first call. It can only intervene during a second call with the prior agreement of the customer on the principle of being called back. A period of 24 hours is allowed between receipt of the pre-contractual documents and the new telephone appointment. Once the contract has been subscribed, the customer receives a welcome letter with the contractual documents (date of conclusion, renunciation period, contact details of the complaints department).

Besides the opinion of the CCSF, which has requested professionals to implement its recommendations by the end of June 2020 at the latest, several bills aimed at regulating the practice of cold calling have been tabled in the French Parliament, but only one was eventually adopted at second reading by members of the Parliament on 30 January this year. This proposal toughens financial penalties for offenders, with fines of up to €75,000 for an individual and €375,000 for a company. The draft bill still has to be discussed in the Senate.

Source: L'argus de l'assurance, 28-02-2020

German Court forbids Check24 "anniversary deals"

Check24, a leading comparison website in Germany, may no longer offer "anniversary deals" or conduct similar discount campaigns for insurance contracts. The Regional Court of Munich ruled in February 2020 in favour of BVK, the German Association of insurance intermediaries (a member association of BIPAR), that had filed a lawsuit against Check24 in 2018, for having on the occasion of its 20 years of foundation, promised to pay out up to 12 monthly premiums for new insurance policies to customers. BVK took the view that this was a breach of the ban on discounts when concluding insurance contracts. The ban on discounts is intended to prevent citizens from being talked into buying unnecessary policies. Check24 argued that the anniversary deals granted were all about rewarding customer loyalty and applied to all products sold, not just insurance policies. The Court decided otherwise. However, the ruling is not yet final. If the judgement becomes final, Check24 will no longer be able to lure insurance customers with high special discounts. Check24 announced that it will consider further appeals after receiving the reasons for the judgement.

Source: Handelsblatt and WirtschaftsWoche websites, 04-02-2020

BACKGROUND

In 2015, BVK filed a lawsuit with the Regional Court of Munich against the comparison website for unfair competition, as Check24 was deceiving customers into believing that it was only a comparison website when it was in fact concluding insurance contracts and receiving commissions (see BIPAR Press of July 2017). Check24 was condemned in 2016 for its lack of transparency regarding its remuneration, but BVK appealed this decision as it did not obtain full satisfaction. In April 2017, the Court of Appeal in Munich followed BVK's opinion, i.e. all market players must meet the same requirements to ensure consistent consumer protection. BVK decided at the end of 2017 to again refer Check24 to the Regional Court of Munich as it considered that the comparison website did not comply with the final ruling of 13 July 2017 of the Higher Regional Court of Munich, i.e. Check24 did not indicate clearly to its clients that they did not only compare insurance policies but also received commissions as brokers when an insurance contract was concluded. In early February 2018, the Regional Court of Munich ruled in favour of BVK and imposed a fine of 15,000€ on Check24.

Polish Financial Supervision Authority's agenda for insurance supervision

At the end of February 2020, the Polish Financial Supervision Authority (PFSA) announced its 2020-2024 priorities for insurance supervision. It stated that it would also focus on the protection of consumers on the financial services market. Its key objectives include, among others:

- with regard to the **review and update of the Solvency II system**, the introduction of additional, more extensive reporting obligations on distribution channels, the key distributors of insurance products and on products sold by insurance companies;
- scrutiny over managing the customer relationship risk, including the **evaluation of remuneration schemes of insurance distributors;**
- as far as **insurance distribution** is concerned, the PFSA:
  - will conduct a survey addressed to insurance companies (it already sent questionnaires last year to selected insurance companies, and the second round of the survey is in the pipeline);
  - will carry out on- and off-site inspections concerning implementation and application of the IDD requirements (with a focus on the bancassurance channel);
  - will audit banks, insurance distributors, the largest multi-agencies, selected brokers, as well as small and medium-sized insurance agencies and brokers;
  - will put a spotlight on supervision exercised by insurance companies over distributors;
  - will consider the possibility of imposing fines for a violation of the obligation to conduct professional training courses.

The PFSA assumes that post-audit recommendations will be the standard supervisory measure in the event of irregularities detected during the inspections. Nevertheless, in the event of a serious violation of the law, it will take more stringent measures (e.g. fines).

Source: CMS Cameron website, 18-02-2020

IKEA partners with major reinsurer to sell home insurance

IKEA, which had already launched the sale of accident and health insurance products in three of its stores in 2014, has now decided to enter the home insurance market by joining forces with the major global reinsurance group Swiss Re. IKEA and iptiQ, Swiss Re's digital solutions platform and white-label insurance company, announced their partnership on 18 February. IptiQ will thus provide the home insurance products that will be distributed on IKEA's website, initially in Switzerland and Singapore.

The offer, called "Hemsäker" - a combination of "home" and "security" in Swedish - will be available in a few clicks on all digital tools, and the contract can be cancelled at any time, with termination effective the next day. The two partners said in a press release that the aim of the offer was to "make home insurance more widely available and thus enable individuals to increase their financial resilience".

Source: L'argus de l'assurance, 18-02-2020

Insurance Europe's surveys

Broad survey on pensions

According to a survey released on 27 February 2020 by Insurance Europe, the European insurance and reinsurance federation, and conducted among over 10,000 people in 10 EU countries, 43% of the respondents are not saving for retirement through a supplementary pension, with 42% of them saying they cannot afford to. The survey found that people's highest priority when saving for retirement is the security of the money invested. The respondents also want to be able to increase or stop contributions, to leave savings to descendants and to be able to transfer or access savings easily.

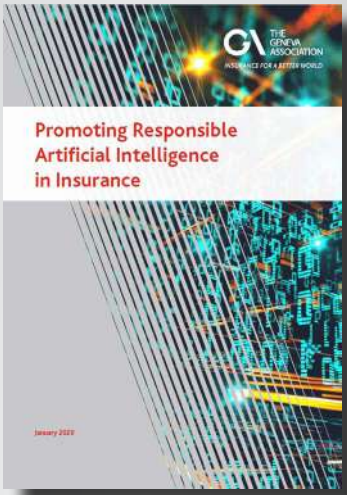
The survey is available here in English only.

European Insurance in Figures

Insurance Europe published on 31 January 2020 its latest edition of "European Insurance in Figures", which contains detailed 2018 data on life, health and property and casualty premiums and claims, as well as the industry's investments and market structure.

The report is available here in English only.

Source: Insurance Europe website



Geneva Association's report on responsible AI in insurance

The leading international think tank of the insurance industry, the Geneva Association, released on 16 January 2020 a paper entitled **"Promoting Responsible Artificial Intelligence in Insurance"**. This report shows that the use of artificial intelligence (AI) in insurance can bring economic and societal benefits by lowering insurance costs and helping insure more people. In order to promote the adoption of AI systems, insurers need to earn their customers' trust by using the AI technology responsibly. The Geneva Association explores in its paper the principles it sees as most relevant for achieving the necessary levels of customer trust, i.e. transparency, explainability and fairness. It also makes recommendations for insurers.

The report is accompanied by a four-page research brief, which takes a close look at the key principles for responsible AI and important considerations for their implementation in insurance.

The report is available here in English only.
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Source: Geneva Association's website

Swiss Re's studies

Sigma study on data-driven insurance

Swiss Re Institute released on 29 January 2020 its latest Sigma study "**Data-driven insurance: ready for the next frontier?"**, which illustrates how the face of insurance is changing as a result of technology, data and digitalisation, how consumers seek more engaging and personalised purchase experiences, how consumers have become more informed and self-directed than ever before since they have been empowered with digitally-facilitated information and greater choice. On the supply side, tools like AI enable more effective customer interaction, allowing insurers to better understand the customer's perspective when designing new products and services.

This report is available here in English only.

Significant growth forecast in life in Central and Eastern Europe

On 5 February 2020, Swiss Re Institute released its "Economic Insights" study "**Central and Eastern Europe: the future's bright in life**", which explains that CEE economies have remained resilient to the ongoing slowdown in western European economies, due to a more diversified economic structure and that rising purchasing power will help lift insurance penetration in the CEE region.

The 2-pager is available here in English only.

Source: Swiss Re's website

The European Commission's **infringement decisions** taken on **12 February** against Member States

INFRINGEMENT PROCEDURES

As the **Guardian of the Treaties**, the **European Commission** is responsible for ensuring that Community law is correctly applied and may initiate **infringement proceedings** under **Article 258 of the Treaty on the Functioning of the European Union (TFEU)** whenever it considers that a Member State (MS) has breached Community law.

1st STAGE — The Commission sends the MS a ***letter of formal notice*** inviting it to submit its observations within 2 months. This exchange of views is not normally publicised.

2nd STAGE — If no reply to the letter of formal notice is received, or if the observations presented by the MS are not considered satisfactory, the Commission sends a ***reasoned opinion***. The MS is allowed an additional 2-month period within which to comply. At this stage, the Commission issues a press release informing the EU's citizens of the purpose of the procedure.

3rd STAGE — If the MS still fails to comply with Community law, the Commission may decide to ***refer the matter to the European Court of Justice***, whose judgment is binding.

4th STAGE — If the MS fails to comply with the Court's judgment, the Commission may seek the ***imposition of a penalty payment under Article 260 of the TFEU.***

5th Anti-Money Laundering Directive

The European Commission sent **letters of formal notice** to **Cyprus, Hungary, the Netherlands, Portugal, Romania, Slovakia, Slovenia and Spain** for not having notified any implementation measures for the 5th Anti-Money Laundering Directive (5th AML), which had to be implemented by all Member States by 10 January 2020. The Commission encourages the aforementioned countries to transpose the Directive urgently, since AML rules are instrumental in the fight against money laundering and terrorism financing. Recent money laundering scandals have revealed the need for stricter rules at EU level. Legislative gaps occurring in one Member State have an impact on the EU as a whole. This is why the Commission insists that EU rules be implemented and supervised efficiently in order to combat crime and protect the European financial system.

Directive on professional qualifications

The Commission sent a **reasoned opinion** to **Portugal** regarding its new rules restricting the acquired rights of Portuguese engineers to perform architectural projects in Portugal and in other Member States. The Commission considers that Portugal has breached the **Directive on the recognition of professional qualifications**, as well as the **TFEU,** and more specifically Article 45 on the freedom of movement of workers, Article 49 on the freedom of establishment and Article 56 on the freedom to provide services. Currently, engineers who do not fulfil the conditions under the new Portuguese rules will have their rights to free movement restricted or eliminated. Moreover, Portugal has not provided any justification for those restrictions, whereas the principle of acquired rights is a fundamental principal of law.

EU rules on Taxation

The Commission decided to refer **Portugal** to the **Court of Justice of the European Union** (CJEU) for failing to amend its registration tax rules for imported second-hand cars. Under EU rules, no Member State shall impose any internal taxation – whether direct or indirect – on the products of other Member States in excess of that imposed on similar domestic products. The Portuguese legislation does not fully take into account the depreciation of second-hand cars imported from other Member States. This results in a higher taxation of such imported cars compared to similar domestic ones, which is not compatible with Article 110 of the **TFEU**. The CJEU already concluded on 16 June 2016 (Judgment C-200/15) that a previous version of this Portuguese tax was contrary to EU Law. The decision to refer the matter to the Court follows Portugal's failure to bring its legislation in line with EU law following the Commission's reasoned opinion.

The Commission sent a letter of **formal notice** to **Latvia** for taxing cars registered in other Member States used by Latvian residents more heavily compared to cars registered in Latvia. According to Latvian rules, residents in Latvia driving a car that is registered abroad must pay "circulation tax" (Vehicle Operation Tax) at a much higher rate than the one applicable for cars registered in the country. The Commission considers that the Latvian legislation is not compliant with the freedoms of movement guaranteed by Articles 21, 45, 49, 56 and 63 of the **TFEU**.

Source: European Commission's press release, 12-02-2020

BIPAR Press articles:

Whilst this information is gathered with suitable care, it is only published as a matter of documentation. Given that "BIPAR Press" only mirrors the articles as published in the specialized press, BIPAR cannot assume any responsibility as to the overall accuracy of its contents.

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