Memo
for information

To: Non-life Committee
From: Non-Life Insurance department
cc: General Liability SG
Date: 17 January 2014
Reference: NLI-14-005

Subject: Package Travel

Background

In July 2013, the European Commission (DG Justice) published a proposal for a Directive on package travel and assisted travel arrangements. With this proposal, the European Commission aims to respond to the development of internet distribution and the liberalisation in the airline sector, unnecessary compliance costs and obstacles to cross-border trade as well as unclear and outdated consumer protection rules.

At the European Parliament, the Internal Market and Consumer Protection (IMCO) Committee has the lead on this file while the Transport and Tourism (TRAN) Committee is responsible for an opinion. The IMCO Committee issued its draft report on 26 November 2013 while the TRAN Committee issued its draft opinion on 3 December 2013 (see also 18 December 2013 memo NLI-13-041). The IMCO Committee later published its amendments on 19 December while the TRAN Committee published its amendments on 18 December.

Recent developments

In light of *conflicting member feedback and the lack of coherent member support* for the comments drafted by the Secretariat on the TRAN amendments (circulated with memo NLI-14-003 as annex NLI-14-004), the Secretariat has determined that it would not be appropriate to send formal comments to the TRAN Committee at this time. Rather, the Secretariat will informally flag certain issues for the relevant TRAN MEP's via an email concerning the vague wording of some amendments and objecting to the introduction of EU rules that could be overly prescriptive, thus hindering the operation of the travel insurance market.

In line with some of the draft comments that were agreed upon by members, the Secretariat will submit *by cob Monday, 20 January 2014*, the points as outlined in the below annex. These points primarily address: the vague wording of the TRAN amendments on "adequate insurance"; the concern about introducing a compulsory insurance measure at EU level for insolvency; the proposed liability for linked travel arrangements; and that insurers should not be put in a position to fulfil contractual obligations of linked travel arrangements.

Comments concerning the IMCO Committee amendments (see memo NLI-14-002 for details) will be discussed at the next General Liability Steering Group meeting on 28 January. At this meeting members will be asked to share their views on the matter as to whether there are any strong concerns about the IMCO amendments and, if so, what arguments could best be put forward to lobby against them.

Next steps

- 22 January 2014: TRAN vote
- 11 February 2014: IMCO vote
- 10 March 2014: Indicative Plenary sitting date

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ANNEX

1. ***Insurance Europe does not support Amendment 220 on Article 14 on the basis that the term "adequate insurance" is vague, unclear and can be interpreted in various ways***

While some insurers offer "assistance insurance" as part of a travel package to cover re-bookings or overnight stays, the question as to whether this insurance is "adequate" may range from consumer to consumer. Mixed interpretations over what constitutes "adequate insurance" can lead to widespread uncertainty about: (1) the type of insurance that must be "adequate"; and (2) what level of cover is considered suitable despite the vast pricings of package travel products. It would be impossible for Member States to judge what is considered "adequate" as this term varies depending on the package travel product and, moreover, the personal budgets of the consumer purchasing the product.

2. ***Insurance Europe does not support Amendment 228 on Article 15(2)a(new) on the basis that compulsory insurance for the insolvency of travel organisers or retailers should not be introduced at EU level***

Insurance products available for business insolvency are *limited* and not every EU market is in a position to provide them on a widespread basis. Insolvency is generally known to be an "entrepreneurial risk" borne by the applicable business and not one that is *completely* transferable to the insurance market.

For some EU markets, a compulsory insurance scheme could prove detrimental to travel organisers or retailers that might not be in a position to fulfil this insurance requirement. The result may be diminished availability of affordable and attractive package travel products for consumers. To avoid this consequence, Insurance Europe believes it would be best to let travellers decide on the opportunity for them to take on any travel protection cover and on the product that best meets their individual needs.

In addition to the above, it is highly unclear what may be meant by taking "all measures to guarantee the protection of the traveller, including the existence of a fund or insurance". There is a lack of specificity about the type of insurance or what could be the exact role of this insurance (eg for purchase by consumer or for purchase by the travel retailer/organiser directly).

3. ***Insurance Europe does not support amendment 224 on Article 15(1) on the basis that travel organisers and retailers should only be held liable for their own insolvency***

As financial security products for the insolvency of businesses are already limited, some EU markets could find it increasingly difficult to develop any products extending cover to *linked* travel arrangement services. In some markets it *is neither economically feasible nor desirable* for a financial security provider, such as an insurer, to assume the risk of insolvency by a travel organiser or retailer outside of the insured.

4. ***Insurance Europe does not support Amendment 230 on Article 15(2)b(new) on the basis that insurers should not be expected to fulfil the contractual obligations of travel organisers on an EU-wide basis***

In some EU markets it is not feasible for insurers to substitute the organiser and to perform travel services (eg the continuation of the trip), as it would neither be economically feasible nor in compliance with regulatory requirements (prohibition to perform non-insurance business).