insurance europe

Memo for information

To: Liability Insurability Working Group
From: General Insurance department
Date: 29 May 2015
Reference: GEN-LIA-15-019

Subject: Package travel Directive trialogue agreement

Summary

In July 2013, the European Commission (DG Justice) published a proposal for a Directive on package travel and assisted travel arrangements. The aim of the proposal was 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in the airline sector, unnecessary compliance costs and obstacles to cross-border trade, as well as unclear and outdated consumer protection rules.

Insurance Europe opposed amendments requiring travel organisers to obtain "adequate insurance", as well as several amendments that aimed to extend the scope of insolvency protection to any "linked" travel services, implying that any cover offered to a travel organiser should also extend to the linked service providers. In comments issued to the EP, Insurance Europe maintained that these amendments were not feasible for the EU-wide insurance sector, as not all markets were capable of offering products to cover the insolvency of travel organisers or their linked travel services.

The lead EP Committee, Internal Market and Consumer Protection (IMCO), adopted its report in February 2014, which addressed Insurance Europe's above concerns and called for "appropriate assistance" rather than "adequate insurance". This report was adopted by the EP Plenary in March 2014 without further amendments.

The Council issued its general approach on 4 December 2014. As previously noted to members (FLASH-14-105), this approach largely reflected the report already adopted by the EP Plenary and thus similarly addressed Insurance Europe's concerns.

Recent developments

Following trialogue discussions, an agreement on the directive was reached on 5 May. The agreed text was approved by the Competitiveness Council on 28 May. The Council has also published a text with details on the Council's position.

The agreement mostly follows the Council's general approach (highlights of which are detailed in NLI-GLI-14-133) and *no new insurance-related provisions have been introduced*. All of Insurance Europe's concerns relating to the EP texts are addressed in the agreed text.

The most salient changes to the Council's text can be found below:

- **Recital 16**: The Council's General approach stated that services which are merely ancillary to other travel services should not be considered travel services. The agreement text now specifies that *financial services, such as travel insurance, should not be considered as travel services*.
- **Recital 17** no longer specifies that contracts on financial services are outside of the scope of the Directive and there is no more mention of *travel insurance*.

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- **Recital 20a:** This new recital replaces the Council's provision allowing member states to place liability on the organiser or on the retailer. The agreement text states that organisers are responsible for the performance of the travel services included in the contract, unless national law provides that both the organiser and the retailer are liable.

The EP IMCO Committee and the Plenary will still need to approve the agreed text (timeline not available as of yet).

Next steps

Q2 2015 (poss.)	EP IMCO and the plenary endorse the trialogue agreement
Q2 / Q3 2015 (poss.)	Publication of the directive in the Official Journal