

Comments Template on Consultation Paper on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive		Deadline 3 October 2016 18:00 CET
Name of Company:	BEUC	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-16-006@eiopa.europa.eu.</p> <p>Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the questions refers to the Consultation Paper on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive</p>		
Reference	Comment	
General Comment	BEUC welcomes EIOPAs draft which sets out reasonable conditions to ensure that the enhanced consumer protection framework, as coined by the Insurance Distribution Directive (IDD), is being put to practice.	

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Product Oversight and Governance requirements are a welcome step towards preventing consumer detriment in the first place. In this perspective we would like to stress that the POG rules covering e.g. the target market, the product testing and monitoring should be detailed sufficiently and should cover all insurance products under the IDD, including non-life insurance policies.

Additionally, we recommend that POG rules should be publicly available, for the sake of transparency and enforcement.

Next to this we strongly support EIOPAs stance on scrutinising very specific types of **inducements**, which are highly prone to causing detriment to consumers. This draft does not introduce an overall prohibition of inducements, but gives more guidance on how to cope with the clear IDD provision that inducements don't have a detrimental impact on the quality of the relevant service to the consumer.

In that perspective, this approach warns explicitly for specific types of remuneration schemes. Schemes whereby e.g. the distributor receives substantial additional benefits upon reaching certain sales targets or whereby distributors touch excessively high commissions are impossible to align with the obligation to act in the best interest of consumers.

Therefore, we strongly back EIOPAs ambition to reduce the mis-selling of insurance-based investment products in order to restore consumer's trust in this sector.

We suggest that a **Delegated Regulation** is highly preferable to ensure consistent implementation across member states.

Question 1

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Question 2	<p>BEUC agrees with the policy proposals on POG requirements. Obliging firms to take into account the consumer interest in every stage of the product life cycle could give them an impetus to create and sell products which truly addresses consumer needs.</p> <p>POG rules covering e.g. the target market, the product testing and monitoring should be detailed sufficiently and should cover all insurance products under the IDD, including non-life insurance policies.</p>	
Question 3	<p>POG requirements should not become a mere tick-box exercise for compliance officers. To this end , more transparency and a stronger involvement of national supervisors and EIOPA in this process should be ensured.</p> <p>Additional requirements should therefore include the following:</p> <ul style="list-style-type: none"> - The requirements for internal reviews should be detailed further (on content & frequency) and require an external check, e.g. by an auditor. - For the sake of transparency, all POG requirements should be made publicly available. - National supervisors should track these POG requirements and hereby check if they effectively prevent inappropriate products from marketed to consumers. Their findings should be reported to EIOPA - If certain product classes are prone to systematic mis-selling practices, according to national supervisors' reviewing of POG requirements, EIOPA should consider introducing a regulatory pre-approval process for these kind of products. 	

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	<p>Furthermore, remedial action is a key component of POG requirements. Therefore, EIOPA should adopt stricter guidelines. When manufacturers become aware that products are not sold as envisaged or other problems arise, the manufacturer should suspend the selling of this product via the distributor(s) involved.</p>	
Question 4		
Question 5		
Question 6		
Question 7		
Question 8	<p>BEUC agrees with the EIOPA advice but is also in favour of further guidance on this points, regarding specific criteria or parameters which should be monitored, such as consumer complaints and early contract terminations.</p>	
Question 9	<p>Regarding the identification of conflicts of interest, we highlight the situation described in 2.c (p45), where a firm receives or will receive from a person other than the consumer a monetary or non-monetary benefit in relation to the services provided. BEUC urges EIOPA to keep this situation in its draft, as this is a major potential source of consumer detriment.</p> <p>Furthermore, we welcome EIOPAs stance that conflicts of interest should be in the first place prevented or mitigated and that the mere disclosure of conflicts of interest should</p>	

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	only be a measure of last resort	
Question 10		
Question 11	<p>BEUC strongly backs EIOPAs draft on inducements.</p> <p>Today, EU consumers are not getting the advice they really need when looking to better invest their savings. Especially in the retail investment area, where the distribution of insurance-based investment products is very common, the low quality of advice has been documented widely, both by our members¹ and by public authorities². Third-party commissions or in-house sales incentives can steer consumers towards overly complex and expensive products, often not suitable for their risk profile.</p> <p>This said, the EIOPA draft does not introduce an overall ban of inducements, but gives more guidance on how to cope with the clear level 1 provision³ that they don't have a detrimental impact on the quality of the relevant service to the consumer.</p> <p>In that perspective the draft warns explicitly for specific types of inducement schemes and BEUC fully supports all types of commission identified in this regard.</p> <p>Please find here more detailed comments on some examples provided in the draft advice, p54.</p> <p>a) <i>The inducement encourages the insurance intermediary or insurance undertaking carrying out distribution activities to offer or recommend a product or service to a customer when from the outset a different product or service</i></p>	

¹Test-Achats <https://www.test-aankoop.be/action/pers%20informatie/persberichten/2014/mijn-bankier-adviseur-of-verkoper-VZBV> <http://www.vzbv.de/pressemitteilung/qualitaet-von-finanzberatungen-unzureichend>

² http://ec.europa.eu/consumers/financial_services/reference_studies_documents/docs/investment_advice_study_en.pdf

³ Art 29(2)

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exists which would better meet the customer's needs

→ This example is very clear; if there is a product which would be better for the consumer but which is not offered because it pays less commission, that would fall foul of the detriment rules. In general, it should be avoided that poor value products are sold purely because of advantageous commission deals.

b) The inducement is solely or predominantly based on quantitative commercial criteria and does not take into account appropriate qualitative criteria, reflecting compliance with the applicable regulations, fair treatment of customers and the quality of services provided to customers

→ BEUC supports this principle, which should avoid that inducement schemes are purely based on sales volumes, but instead reflect also proper treatment of consumers.

c) The value of the inducement is disproportionate or excessive when considered against the value of the product and the services provided in relation to the product

→ BEUC strongly supports this principle. **Excessive commissions** fees are very likely to cause mis-selling of financial products and can never be aligned with the obligation to act in the best interest of consumers. Just as one example, our Austrian member organisation AK documented a commission fee of about 8 % of the total premium amount of the life insurance, running to more than 20.000 EUR for an individual consumer, which was brought to court⁴.

In this perspective, there is currently still a lack of understanding of how exactly these inducement schemes between manufacturers and distributors are designed. Unfortunately, the IDD has missed an opportunity here, not obliging

⁴https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Justiz&Dokumentnummer=JIT_20100317_OGH0002_0070OB00013_10B0000_000

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	<p>firms to disclose the amount of commission to consumers (instead the IDD only obliges to disclose the 'nature' of the commissions).</p> <p><i>d) The inducement scheme entails any form of variable or contingent threshold or any other kind of value accelerator which is unlocked by attaining a sales target based on volume or value of sales</i></p> <p>→ BEUC strongly supports this principle dealing with contingent commissions. Any inducements scheme whereby e.g. the distributor receives substantial additional benefits upon reaching certain sales targets is impossible to align with the obligation to act in the best interest of consumers and would have detrimental impact on the quality of the relevant service to the customer.</p> <p>BEUC would like to insist that both national authorities and EIOPA should play an active role in enforcing the criteria set out above, in order to tackle both the wide mis-selling and lack of trust in the distribution of insurance-based investment products.</p>	
Question 12		
Question 13	As stated already in our response to question 11, there is currently a lack of understanding of how exactly these inducement schemes between manufacturers and distributors are designed. We therefore invite EIOPA to further investigate these practices	
Question 14		
Question 15		
Question 16		
Question 17		
Question 18		

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