

<b>Comments Template on EIOPA-CP 13/016 Consultation Paper on a Draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products</b>		<b>Deadline 23 September 2013 12:00 CET</b>
Company name:	BEUC (The European Consumer Organisation)	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.  <i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word <b>Public</b> in the column to the right and by inserting the word <b>Confidential</b>.</i>	Public
<p><b>Please follow the instructions for filling in the template:</b></p> <ul style="list-style-type: none"> <li>⇒ <u>Do <b>not</b> change the numbering in column "Reference", or any other formatting in the file.</u></li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph, keep the row <u>empty</u>. Please do not delete rows in the table.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific paragraph numbers below. <ul style="list-style-type: none"> <li>○ If your comment refers to multiple paragraphs, please insert your comment at the first relevant paragraph and mention in your comment to which other paragraphs this also applies.</li> <li>○ If your comment refers to sub-bullets/sub-paragraphs, please indicate this in the comment relating to the corresponding paragraph.</li> </ul> </li> </ul> <p><b>Please send the completed template to <a href="mailto:CP-13-016@eiopa.europa.eu">CP-13-016@eiopa.europa.eu</a>, in MS Word Format, (our IT tool does not allow processing of any other formats).</b></p> <p><b>For your convenience, the complete list of questions is outlined below:</b></p> <ol style="list-style-type: none"> <li>1. <i>Does this Report address the most relevant issues? If not, what other aspects should EIOPA consider?</i></li> <li>2. <i>Is this Report helpful in informing the debate over appropriate knowledge and ability requirements for distributors of insurance products (particularly, in the light of the current</i></li> </ol>		

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	<p><i>negotiation of the IMD2 proposal)?</i></p> <p>3. <i>Do you consider that the high-level principles cover the right aspects of knowledge and ability?</i></p> <p>4. <i>Does the section on continuous professional development (CPD) cover the most relevant issues?</i></p> <p>5. <i>What do you think of EIOPA's suggestion, as an example of a minimum level of CPD, of 30 hours study activities within a period of 3 years (or an equivalent amount on an annual basis)?</i></p>	
Reference	Comment	
General Comment	<p>We welcome the opportunity to respond to this discussion paper and feed into EIOPA's work on supervisory practices in the area of insurance distribution.</p> <p>By definition, an insurance contract is intended to cover risks that rarely occur at individual level. This means that the consumer is not able to learn from past experience to choose the best insurance contract or the best insurance intermediary as it is the case when buying a physical product. This is the reason why it is so important that mediation insurance service is of high quality for consumers.</p> <p>The role of the intermediary is to assist consumers in making the best choice when purchasing an insurance contract. The wrong buying decision and the resulting potential loss can have a significant financial impact on consumers. This does not only apply to life insurance, but also to general insurance where the potential maximum loss for the insured can have devastating financial consequences in cases where it turns out that the cover was not adequate or appropriate or the consumer was unable to claim.</p> <p>In the case of travel insurance for example, repatriation costs can easily amount to tens of thousands of euros<sup>1</sup> and if the intermediary has failed to raise the issue of pre-existing medical conditions, consumers may end up not being covered despite having taken out an insurance policy. Therefore, training and professional competence requirements for insurance intermediaries are of great importance for consumer protection. Currently, the setting of such standards is left to member states</p>	

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	<p>and the interpretation of the requirements of the Insurance Mediation Directive varies significantly. This can lead to significant gaps in consumer protection, especially in the case of cross-border contracts.</p> <p><sup>1</sup> According to medical insurer AllClear, the average repatriation cost for UK holiday makers at the beginning of 2009 was GBP 25,000, quoted in Daily Mail 13 February 2009.  <a href="http://www.dailymail.co.uk/travel/article-1145024/Medical-repatriation-new-high.html">http://www.dailymail.co.uk/travel/article-1145024/Medical-repatriation-new-high.html</a></p>	
<p>Q1.</p>	<p>In our view, the report should pay closer attention to the issue of how knowledge and ability requirements for intermediaries can be used to deal with the issue of conflicts of interest. In the last few years, there have been a series of misselling scandals related to insurance. The most notable one, is the wide-spread misselling of payment protection insurance in the United Kingdom but there have been scandals across the European Union. Several examples can be found in the BEUC position paper on the recast Insurance Mediation Directive.<sup>2</sup> At the root of many of these scandals is the issue of incentivisation of staff involved in insurance mediation. It is important that knowledge and ability requirements address this issue by emphasising the importance of the consideration of the needs of the consumer.</p> <p>We would also like to take this opportunity to highlight the necessity to also apply the same knowledge and ability to the distribution of insurance products complementary to the supply of goods where the annual premium is below €600.</p> <p>The importance of such a measure is demonstrated by the example of the misselling of insurance to protect against the theft of a mobile phone sold when purchasing the device. The consumer is usually not aware that this insurance applies only in case of theft with violence; if the thief has extracted the mobile phone from your pocket or your bag without your knowledge, the insurance does not protect the policyholder. This is almost never explained to the consumer before subscribing to this insurance. This is the same in case of damages to the device: numerous exclusions are not detailed to consumers when taking out the insurance contract. A recent survey published by our French member<sup>1</sup> UFC Que Choisir shows that the commissions for the distribution of mobile phone insurance reach an average of 55% as well as that those insurance</p>	

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	<p>are almost always unnecessary useless due to the limited risks covered and the numerous exemptions.</p> <p><sup>1</sup><a href="http://docshare.beuc.org/docs/1/HBMPBABDGNIGNLGPEAJDFMHPDW69DBDPY9DW3571KM/BEUC/docs/DLS/2013-00022-01-E.pdf">http://docshare.beuc.org/docs/1/HBMPBABDGNIGNLGPEAJDFMHPDW69DBDPY9DW3571KM/BEUC/docs/DLS/2013-00022-01-E.pdf</a></p> <p><sup>1</sup> <i>Assurance téléphonie mobile Un vrai problème de couverture</i>, published in December 2012 by UFC Que Choisir. <a href="http://www.quechoisir.org/argent-assurance/assurance/assurance-des-biens/communiquer-assurance-telephonie-mobile-un-vrai-probleme-de-couverture">http://www.quechoisir.org/argent-assurance/assurance/assurance-des-biens/communiquer-assurance-telephonie-mobile-un-vrai-probleme-de-couverture</a></p>	
Q2.	<p>The report does make a helpful contribution to the debate regarding knowledge and ability requirements for insurance intermediaries. However, from a consumer point of view, this work should also be supported by an analysis of the current training standards for insurance intermediaries in all member states and how they are being monitored and enforced. The aspect of ethical treatment of customers should be given particular attention.</p>	
Q3.	<p>We suggest that the following requirements are added:</p> <ul style="list-style-type: none"> <li>- Legal aspects: appropriate knowledge of the benefit system and other legal provisions which provide consumers with rights to financial compensation also covered under the proposed insurance policy e.g. in the case of travel insurance, rights under Regulation 2004 261/2004.</li> <li>- Disclosure and advice: knowledge and ability to deal with the requirements of financial excluded consumers</li> <li>- Disclosure and advice: knowledge and ability to explain the remuneration arrangements to the customer.</li> </ul>	

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Q4.	<p>In our view, it is important that initial knowledge requirements as well as CPD requirements also cover legislative developments that are not necessarily directly related to financial services e.g. changes to the benefit system which will have an impact on certain types of insurance cover. As an example, during the financial crisis the UK government changed the rules that allowed homeowners to claim mortgage income support in the case of reduced working hours or loss of employment. This had an impact on mortgage payment protection insurance and insurance intermediaries should be expected to immediately take such developments into account.</p> <p>We are also of the view that professional requirements should include an obligation to carry out a review whether the cover is still appropriate for existing customers, in cases where new legislation affects existing contracts.</p>	
Q5.	<p>There are crucial differences between member states' insurance markets and training systems and no solution fits necessarily everyone. With regard to the proposal of 30 hours study activities within a period of 3 years, it is important to recognise that companies make use of different types of training methods. Both formal, informal and non-formal learning can play an important role, and it does not make sense to register the number of hours without considering content and quality. In our view, the requirement for continuous professional development needs to be linked to concrete outcomes rather than a set minimum amount of study activity. For example, in cases where there have been major changes in the market place, which could be in the form of new legislation or a change to the benefit system which for example can affect medical claims, 10 hours of study activities per year would be an inadequate amount and 30 hours in one year and no CPD activity in the following 2 years would also seem inappropriate. The guidelines should therefore stipulate learning outcomes and that completion of the required number of hours of study activities in itself does not constitute compliance with the CPD requirements.</p> <p>In addition to the outcomes set out in the consultation paper, CPD requirements should also include the treatment of customers in financial difficulties or with specific special needs.</p> <p>BEUC is also of the view that the training of intermediaries or employees of insurance undertakings and the control and assessment of their knowledge and skills will be carried out by a body certified by the national competent authorities and independent from insurance</p>	

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	<p>undertakings.</p> <p>We have doubts about the training quality when organised by the insurance undertaking without any external assessment. The training should preferably be organised by a body not directly or indirectly dependent from insurance undertakings. Such trainings are mainly sales-oriented and do not comply with legislation as regards the obligation to act honestly, fairly and professionally in accordance with the best interest of its customers like provided by Article 15.1. If trainings are organised by an insurance undertaking or an intermediation firm, Member States should set up an independent assessment of the training programmes and the intermediary's knowledge and skills.</p>	