

BIPAR Update

16 February 2021

bipar

European Federation of Insurance Intermediaries

Commission

INSIDE THIS ISSUE

1. BIPAR speaks at Commission's roundtable regarding relief measures in the context of the Covid-19 crisis
2. Parliamentary question related to Covid-19 and insurance
3. Business Interruption insurance rulings

1. BIPAR speaks at Commission's roundtable regarding relief measures in the context of the Covid-19 crisis

On 5 February 2021, BIPAR participated in the third European Commission's roundtable meeting with financial sector representatives, consumer and business representatives about relief measures in the context of the Covid-19 crisis.

The entire roundtable was chaired by Mairead McGuinness, the European Commissioner for financial services, financial stability and Capital Markets Union.

BIPAR Chair Juan Ramón Plá was a panelist in the morning session on "Taking stock of the implementation of Covid-19 relief measures and best practices in Member States". He explained that intermediaries had complied with the best practices applicable to them, ensuring business continuity also thanks to their proximity and permanent dialogue with clients. He explained that in the insurance sector, a wide variety of relief measures had been applied, some of which were proactively applied by insurers and some upon request. Taking into account that the pandemic is ongoing and taking into account the uncertainty of the longer-term effects of crisis, he wished for intermediaries' clients that insurers continue to insure insurable risks.

The afternoon session looked at which relief measures or best practices could still help consumers and businesses during the on-going pandemic and straight after. Panelists discussed whether these could and should still be offered by lenders and

insurers; what could be improved when it comes to the accessibility and transparency of relief measures offered by financial institutions; and how a phase-out of relief measures can be organised in a balanced and fair way.

Large part of the roundtable focused on banking and the credit moratoria.

Participants amongst called for a careful phasing out of the relief measures, more and better financial education, transparency of costs related to payment holidays, and regarding insurance, the consumer representatives called for premium rebates or refunds.

The Commissioner stated that she wanted to draw strong conclusions of the day and the discussions and that she would come back with suggestions for priorities and actions to look into.



2. Parliamentary question related to Covid-19 and insurance

Maltese Socialist MEP Alfred Sant has tabled a parliamentary question to the European Commission on Covid-19 and insurance. The Commission's response to this question (nor to the previous questions we have reported on) is not yet available and will be provided in a future BIPAR Update.

He states that the COVID-19 pandemic has left many companies in financial difficulty, especially small and medium-sized enterprises. *Government intervention has helped to alleviate some of the impact. However, there is still a way to go and a clear need to recover while embedding resilience in our economy. This will allow us to be better prepared for the next crisis.*

Indeed, there is a shortage of financial protection for large systemic events and this pandemic is only one manifestation of the variety of system risks that could disrupt the European economy.

In order to bridge the gap in financial protection for large systemic risks, the EU could ensure the resilience of the single market by providing some form of guarantee aimed at mitigating the possible impacts of such risks.

At Commission-level, an Inter-service Working Group on Pandemic Insurance has been created.

Could the Commission present a medium-term synopsis of its activity on pandemic insurance in order to keep Parliament informed of the developments and to ensure a proper democratic debate on this crucial issue?

3. Business interruption insurance rulings

First court ruling regarding Business Interruption Insurance in Spain

In Spain, the regional court of Gerona ruled in the first business interruption (BI) insurance case. The court confirmed in this case that the insurer should pay the insured restaurant business, following a 30 day-closure which was imposed by Covid-related state legislation.

You will find the [ruling](#) - with personal details blacked out - [attached](#) (in Spanish only).

Irish High Court Ruling on Business Interruption Insurance

On 5 February 2021, the Irish High Court ruled that four 4 pub owners were entitled to be compensated by Insurer FBD for business disruption suffered arising from the Covid-19 pandemic. The insurer FBD refused to indemnify the four pubs owners for losses stemming from disruption caused to their businesses by Covid-19, saying that their policies did not cover these types of claims.

The FBD BII policies included a clause confirming that pubs would be indemnified if they were closed by order of the government authority in relation to "outbreaks of contagious or infectious diseases on the premises or within 25 miles of same". According to the insurer FBD, the 'outbreaks' clause was not triggered in circumstances where the closures were a result of a national disease outbreak.

However, the Irish High Court dismissed FBD's arguments and ruled in favour of the four pub owners. The court held that cover under the BII policies was not lost where the closure was caused by national disease outbreak as long as there was an outbreak within the 25-mile radius of the business and the outbreak was one of the causes of the closure.



Irish BIPAR member association Brokers Ireland welcomed the ruling. Cathie Shannon, Director of General Insurance at Brokers Ireland said: *"The clarity the court has now brought to the issue under this landmark case, that clearly has implications for other businesses with similar policies, is very welcome. While the issue of quantifying the losses remains to be determined by the Court later this month, it does hopefully mean that a final resolution is within striking distance"*.

"It is to be hoped that all who have relevant insurance cover will receive their payouts without undue delay. Insurers have an obligation to abide by the provisions of the Consumer Protection Code in respect of their treatment of businesses that are covered by the Code, as well as the CBI's business interruption framework and insurers should consider these when deciding how best to proceed. It will likely mean that some businesses will be viable, that without this decision might not otherwise be."

"While no one could foresee the devastation caused by the pandemic, nonetheless there is an element of David and Goliath here. While no one would wish the giant Goliath any harm, the fact of the matter is generally he has more power in his armoury when attacked than does David, such as offloading some of the risk by way of reinsurance, and this goes to the heart of insurance. However, unfortunately, into the future, the pandemic may result in tighter insurance conditions, and wariness about such cover," concluded Cathie.