



FINANCIAL REGULATOR  
*Rialtóir Airgeadais*

**CONSULTATION PAPER ON THE  
COLLATION AND PUBLICATION OF  
INSURANCE LIABILITY CLAIMS DATA**

**March 2006**

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Appendix I

## 1. Making your submissions

The closing date for submissions is 19 May 2006. Comments are welcome from all interested parties. Please make your submissions in writing and, if practical, by e-mail. When addressing any issue, please use the corresponding numbers in this paper to identify the section you are referring to. If you are raising an issue that we have not referred to in this paper, please indicate this in your submission.

We place a high value on the openness of the consultation process. Consequently, we intend to make the submissions received available on our website after the deadline for receiving submissions has passed.

Please send your submission to:

Ms Lorraine Nolan,  
Consumer Information Department,  
Financial Regulator,  
PO Box 9138,  
College Green,  
Dublin 2.  
Email: [Lorraine.Nolan@financialregulator.ie](mailto:Lorraine.Nolan@financialregulator.ie)  
Ph: 01 – 410 4000  
Fax: 01 – 410 4920

All submissions should be sent before 19 May 2006

## 2. Introduction

In September 2002, the Competition Authority, in conjunction with the Department of Enterprise Trade and Employment, began its "Study of competition issues in the non-life insurance market". The study focused on motor insurance, employers' liability<sup>1</sup> insurance and public liability<sup>2</sup> insurance. The terms of reference for the study were:

- To identify anti-competitive practices or other constraints on competition in the non-life insurance market in Ireland, with particular reference to motor insurance, employers' liability and public liability insurance;
- To highlight any anti-competitive practices or other constraints that are particular to the Irish market;
- To make recommendations for legislative and other changes to ensure that competition works well for consumers in the Irish market; and
- To make, in the case of any problems identified at EU level, recommendations for change at that level.

In March 2005 the Competition Authority published its final report and recommendations<sup>3</sup>. One of the recommendations made was that the Financial Regulator "*should establish a system for the on-going collection and publication of data on mass risk employer's liability and public liability policies*". The Competition Authority commented that "*The more information that an insurer has about claims in the market, the more precisely it can calculate its costs and hence more keenly it can price. Furthermore the lack of such information should remove this reported hindrance to new insurers entering the Irish market*".

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<sup>1</sup> Employers liability insurance is designed to cover liabilities that an employer may incur if an employee has a claim arising from work undertaken for the employer.

<sup>2</sup> Public liability insurance covers businesses against claims from the public suffering bodily injury or damage to their property because of negligent business practice.

<sup>3</sup> The report contained 47 recommendations of which thirty-seven were directed to the Financial Regulator and the remainder related to the Courts Service, the Departments of Transport and Finance and the Motor Insurance Bureau of Ireland.

In the period since the publication of the Competition Authority's report the Department of the Taoiseach published, in July 2005, a Report on the Introduction of Regulatory Impact Analysis (RIA). This was followed by more detailed guidelines in October 2005. The application of that report and guidelines is specifically directed at Government Departments and Offices, and consequently the guidance that it contains is of direct relevance only to those entities. Nevertheless the Financial Regulator, cognisant of the value that an RIA exercise can bring to bear on decision-making, has decided to conduct and publish RIAs where appropriate.

The Financial Regulator will conduct an RIA in relation to the Competition Authority's recommendation on the on-going collection and publication of data on mass risk employer's liability and public liability policies. A RIA incorporating a public response to the submissions received, an examination of the costs and benefits, an evaluation of policy options and an assessment of the impact on competition will be published later this year.

This paper also seeks views on whether or not the Financial Regulator should also compile and publish market statistics in relation to the home insurance market.

### 3. Background

The rationale for the Competition Authority's recommendation to produce data on the EL and PL insurance market is set out in the extracts from their report reproduced below. The full report is available at [www.tca.ie](http://www.tca.ie).

#### Data Sharing

**4.55** Insurance is a special case where certain forms of data sharing can promote competition. An unusual feature of insurance is that sellers only discover their costs after they set prices, sometimes years later. The more information that an insurer has about claims in the market, the more precisely it can calculate its expected costs and hence the more keenly it can price. The wider publication of such data can also reduce the costs of new entry, an additional stimulus to competition.

**4.56** This is especially important for smaller markets, where even a specialist may not have many observations in a year. For this reason, data sharing may be more important in a small economy like Ireland's. Indeed, many industry participants have cited the scale of the Irish market as a disincentive to entry.<sup>4</sup>

**4.57** When there is inadequate information about a specific risk, different types of risk may be lumped together into a common grouping. This will seem unfair to what might be termed "lower-risk" clients, because they are grouped with other somewhat similar but in fact higher risks. This leads to lower-risk clients paying higher premiums than their individual risks would have ultimately required. Better information about risk, at a useful level of detail, helps in tackling this.

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<sup>4</sup> A Datamonitor Survey from 1995 ranked the Irish liability insurance markets last of 16 European Countries in terms of attractiveness (See C Parsons et al (2004), *Report on the Economics and Regulation of Insurance*, London: Cass Business School, City of London.) One of the factors considered in the ranking was market size. Ireland ranked low in this category. A number of insurers and intermediaries also referred to the small size of the Irish insurance market as a disincentive to entry at the Joint Oireachtas Committee on Enterprise and Small Business hearings during 2004.

**4.58** The fact that data sharing can have a positive effect on competition in insurance is recognised in EC law in a “block exemption” regulation.<sup>5</sup> This regulation provides for certain specified forms of co-operation, subject to strict conditions. In particular, the collective creation of reliable statistical data on the intensity and frequency of claims in respect of a risk in the past is allowed. No individual insurance undertakings, nor any insured parties, may be identified. Nor should any insurer be obliged to make use of the data. The results should be made available on reasonable and non-discriminatory terms, e.g., publication.

**4.59** The work done by MIAB, which analysed raw data from insurers, is a good example of how the creation of reliable statistical data at a market-wide level can comply with competition law. MIAB recommended<sup>6</sup> that the central gathering of statistics on motor insurance premiums and claims costs by driver profile be formalised by the Financial Regulator. It also recommended that the Financial Regulator monitor data quality to ensure that reliable information is available to inform public policy in future years and to improve market intelligence. The Financial Regulator is carrying on the work done by MIAB in this regard and is currently in consultation with the insurance industry on how to further develop the collection of reliable data.

### **Information Sharing**

**8.50** Competition law and economics generally disfavour the sharing of data among competitors. In most markets, information sharing is viewed as anticompetitive because it may facilitate collusive or coordinated behaviour.

**8.51** Insurance is a special case where data sharing can promote competition. Sellers of insurance only discover their costs after they set prices, and the ultimate claims costs may not be known until many years after the receipt of premiums. For motor, this is usually within three years. With some liability insurance, however, it can be many years later.<sup>7</sup> The

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<sup>5</sup> Commission Regulation 358/2003.

<sup>6</sup> MIAB (2002), *Report*, Recommendation No. 5.

<sup>7</sup> The Cass report indicates that some forms of liability insurance are characterised by a 'long tail' of claims, many years beyond origin of the claim. C. Parsons et al, *Report on the Economics and Regulation of Insurance*, London: Cass Business School, City of London, p. 51. The MIAB Report 2004 indicates "the Statute of Limitations for personal injury claims is three years, with exceptional cases allowed a longer period to initiate litigation." MIAB

more information that a seller has about claims in the market, the more precisely it can calculate its costs and hence the more keenly it can price. The wider publication of such data can also reduce the costs of new entry, an additional stimulus to competition.

## **Analysis**

**8.55** A practical necessity for entry into an individual insurance market is detailed information on the risks presented by the buyers in the market. To the extent that the available information regarding the market provides insufficient detail on potential risks (in timing, extent or reliability), it is difficult for insurers to expand into new markets.

**8.56** Information about the risks presented by groups of buyers can be acquired from the buyers themselves or their intermediaries. Important data on the likelihood, frequency and severity of claims is provided by the claims experience over recent years for that type of buyer. Information on the track record of specific buyers, and the safety procedures for these buyers is also relevant to pricing specific policies.

**8.57** Insurers that have built up their own data on risks in a particular market from their own customers have important information that those outside the market do not have. In this sense, the absence of such information can be a barrier to entry because those in the market face lower costs than those seeking to enter.<sup>8</sup> This barrier is not necessarily insurmountable. If buyers within a particular category pool their efforts to gather data on claims experience for a multi-year period, they can attract interest from insurers. This is particularly the case if they can demonstrate that they have also developed and are operating relevant safety procedures. This work can be done with the assistance of intermediaries. Examples of this are presented in Chapter 10, and these examples indicate that there can be entry into new markets if the necessary information can be assembled. This is particularly the case for liability insurance, where risks may be very different across industries. Data pooled across industry participants can have a substantial impact in such cases.

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(2004), *Report 2004*, 27 September, in section Analyses of Insurers' Statutory Returns-"Blue Book" Analyses, 1997-2001, p. 19.

<sup>8</sup> Stigler, G. (1968), *The Organization of Industry*, Homewood Illinois: Richard D Irwin, Chapter 6, "Barrier to Entry, Economies of Scale, and Firm Size," pp. 67-70.



To summarise, the Competition Authority believes that the publication of employers' liability and public liability data will help potential insurance companies to price risk in relevant insurance markets by:

- **Increasing access to the cost information currently held privately by existing insurers, thereby facilitating new entrants on equal terms and enabling greater mobility across market segments; and**
- **Making the market operate in a more open and transparent manner so that the pass-through of cost is visible, and policy-makers can see that competition is operating in the interests of consumers.**

The purpose of the data is to assess employers' liability and public liability in the domestic market, consequently it is proposed that data from captive insurers be excluded from the data set. It is proposed that insurers will be required to submit the data annually and in electronic form.

## 4. Consultation Questions

### General Questions

#### Question 1

Do you have any general comments on the Competition Authority's assessment of conditions in the Irish employers' liability and public liability insurance markets?

#### Question 2

Could the publication of the data envisaged by the Competition Authority have any un-anticipated effects?

#### Question 3<sup>9</sup>

If the data collation exercise envisaged by the Competition Authority is to be undertaken who should perform the task? e.g.

- \* The Financial Regulator?
- \* An industry body?
- \* Another party?

Please outline the rationale for your view. If you believe that someone other than the Financial Regulator should perform this task please give your views on whether or not the Financial Regulator should exercise an oversight role and set out how this other party would have access to all information in the market.

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<sup>9</sup> Please see Appendix 1 for some brief details of the arrangements in a few countries.

## More Specific Questions

### Question 4

Do you agree that the publication of market statistics for employers' liability and public liability insurance will facilitate new entrants on equal terms and enable greater mobility across market segments?

### Question 5

Do you agree that the publication of market statistics for employers' liability and public liability insurance will make the market operate in a more open and transparent manner so that the pass-through of cost is visible, and policy-makers can see that competition is operating in the interests of consumers?

### Question 6

Are there policy options other than the publication of this data that would yield the same or similar results?

### Question 7

Do you consider that the publication of such data will contribute to a lowering of costs and greater choice in the market for consumers?

### Question 8

Do you consider that any other benefits will accrue from the publication of this data?

### Question 9

Do you believe that there are any legal or other impediments that may prevent the publication of this data?

**Question 10**

The Competition Authority's recommendations suggest that the Financial Regulator should collect and publish employers' liability and public liability insurance data relating to such matters as premia, claims experiences, retained reserves, accident costs and insurer concerned payments. In addition to these data variables do you think any additional data should be published?

**Question 11**

Do you think employers' liability and public liability gross written premium should be reported separately or as a composite figure? Furthermore, to make the data useful should the data be broken down by:

- (a) Public liability product type i.e. mixed public, construction liability, excess liability,
- (b) Industry type,
- (c) Work force size,
- (d) Annual turnover or
- (e) Can you suggest what other possible breakdown of the data may be useful and why?

**Question 12**

How many years after a given accident year would it be necessary for the Financial Regulator to collect revised employers' liability and public liability claim cost estimates for that accident year? [At the moment the Financial Regulator publishes claim costs data for up to five years after the accident year for the Private Motor Insurance Statistics.]

**Question 13**

Should the collation of employers' liability and public liability statistics start from the 2004 accident year or some earlier accident year? Can you give reasons for your response.

**Question 14**

Should all insurers authorised by the Financial Regulator to write employers' liability and public liability insurance business be required to submit claims and policies data? Can you identify other market participants that should also be required to submit data? While insurers who are authorised to write insurance business in the Irish market on a freedom of service basis are not obliged to submit data to the Financial Regulator it is proposed that these companies will be asked to submit the data voluntarily. Do you think this data is necessary to give a comprehensive view of the Irish employers' and public liability insurance markets?

## Quantification of Costs and Benefits

**Question 15<sup>10</sup>**

What is your estimate of the additional cost, over and above costs already incurred, that the collation and provision of the data envisaged would impose? Ideally, please comment on both set-up and ongoing costs.

**Question 16**

What is your estimate of the value of the additional benefits, to consumers and to industry, that the collation and provision of the data envisaged would bring?<sup>11</sup>

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<sup>10</sup> This question is probably most relevant to insurance companies, however all respondents are welcome to offer their comments. Respondents should also feel free to comment in general terms on the most appropriate way to identify and measure these costs.

<sup>11</sup> Respondents should also feel free to comment in general terms on the most appropriate way to identify and measure these benefits.

## House Insurance Claims Data

The Financial Regulator is currently looking at aspects of the house insurance market, and in particular at the annual indexation factors applied to building and contents values. We understand that in some instances the claims experiences of insurance companies is driving the indexation process. We wish to consider if the publication of claims data in relation to house insurance would lead to greater transparency in the manner in which indexation factors are calculated.

### **Question 17**

Given that the Financial Regulator is producing claims data for the motor insurance market, and in this consultation paper is seeking views on the publication of employers' liability and public liability claims data, do you think the Financial Regulators statistical role should be extended to incorporate house insurance claims data also? If so, what level and type of data should the Financial Regulator publish?

## Funding

The question arises as to how the costs of fulfilling the market data role should be funded were the Financial Regulator to undertake this task. The Financial Regulator is giving consideration as to whether there would be a charge levied for the data. However, the Financial Regulator recognises that any such charge must be set at a level that is not so high as to constitute a barrier to entry in the market<sup>12</sup>.

As this is an insurance-specific issue, and as the Financial Regulator has adopted the general principle that the allocation of funding requirements between different sectors should generally take account of the differing levels of regulatory work as between those sectors, any costs not recouped would probably be borne by the insurance industry. It should be noted however that the principal beneficiaries of the exercise would be potential market participants, some of whom may not be currently contributing to the funding of the Financial Regulator.

### **Question 18**

What in your view is the most appropriate form of funding for employers' liability and public liability market data and why?

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<sup>12</sup> As required by Commission Regulation (EC) No 358/2003, which provides for the block exemption.

## APPENDIX I

The Financial Regulator has researched the arrangements in place in a number of other jurisdictions in relation to the collation and dissemination of insurance market data. Australia and the United Kingdom were chosen because they are common-law jurisdictions. Finland and Denmark were chosen because, like Ireland, they are smaller markets within the EU.

### **Australia**

In January 2005 the Australian Prudential Regulatory Authority (APRA) established the National Claims and Policies Database (NCPD) which focuses on the collection of policy and claims data for public and product liability insurance and professional indemnity insurance. It is envisaged that the data will assist insurers to assess risks and determine appropriate premiums and encourage the development of new insurance products. APRA published data on the market for 2003 and 2004 in 2005. The statistics are available on the web at [www.apra.gov.au](http://www.apra.gov.au).

### **United Kingdom**

In the United Kingdom the Association of British Insurers (ABI) generates statistical data in relation to premiums and claims, commission and expenses, change in provisions, equalisation reserves, underwriting result, and operating ratios for a range of insurance categories. This data is provided free to members of the ABI or may be purchased by non-members. Data relevant to individual categories of insurance can be bought separately, or alternatively a full statistical and research subscription is available for Stg£2,000 + VAT per annum. The statistics are available on the web at [www.abi.org.uk](http://www.abi.org.uk).

### **Finland**

The Federation of Finnish Insurance Companies (FFIC), the trade association for insurance companies in Finland, publishes some very basic information on the gross premiums written, financial ratios, profit and loss accounts and balance sheets of non-life insurance companies operating in Finland. According to the FFIC this is the most detailed data published on



insurance statistics in Finland. The FFIC's publications are freely available on the web at [www.vakes.fi](http://www.vakes.fi).

### **Denmark**

The Danish Insurance Association (DIA) publishes an annual statistical analysis of the life, non-life and pensions business. In relation to non-life business, the DIA publication includes some aggregated information on premium income and claims by class and sub-class of insurance, but in less detail that is envisaged by the Competition Authority. The DIA's publication may be freely downloaded from the web at <http://www.forsikringenshus.dk>.



FINANCIAL REGULATOR  
*Rialtóir Airgeadais*

Please send to

Ms Lorraine Nolan  
Consumer Information Department  
Financial Regulator  
PO Box 9138  
6-8 College Green  
Dublin 2

Email: [Lorraine.Nolan@FinancialRegulator.ie](mailto:Lorraine.Nolan@FinancialRegulator.ie)  
Phone: (01) 410 4000  
Fax: (01) 410 4920

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