



EU, COMPETITION AND REGULATED MARKETS

Insurance Ireland: Formal antitrust investigation launched by the European Commission

by **Marco Hickey**

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A formal antitrust investigation into Insurance Ireland was launched by the European Commission on 14 May 2019. Its purpose is to assess whether the conditions of access to the Insurance Link data pooling system restricts competition in breach of EU competition law.

Background

Insurance Ireland is an association of undertakings, and its members include insurance companies and agents active in the insurance sector in Ireland. It manages a database called Insurance Link into which member companies contribute data on insurance claims on an ongoing basis.

According to the Commission's press release, the "stated purpose of the system is to facilitate the detection of potentially fraudulent behaviour by insurance claimants and to ensure the accuracy of information provided by potential customers to insurance companies and/or their agents".

The Commission stressed that it is not against data pooling arrangements, which it recognised can contribute to effective competition: the participation in, and access to, a data pool by insurance service providers, may "directly benefit consumers in terms of ensuring more suitable products and competitive prices".

However, the Commission noted that in some situations, data pooling arrangements may lead to restrictions of competition. In this regard, it provides the examples of "where the conditions of access to and participation in a data pool result in placing certain market operators at a competitive disadvantage or where the data pooling system enables market operators to become aware of the market strategies of their competitors".

Commission's Investigation

The Commission's investigation will assess, in particular, whether the conditions imposed on companies wishing to participate in and access the Insurance Link database may have had the effect of placing these companies at a competitive disadvantage on the Irish motor insurance market in comparison to companies already having access to the database.

The EU Commissioner for Competition, Margrethe Vestager, said: "Insurance is essential for all car drivers in Europe. We are investigating whether companies wishing to offer their services on the Irish motor insurance market may have been unfairly prevented from accessing a data pool managed by Insurance Ireland for its member companies. This could potentially reduce Irish drivers' choice of motor insurance policies at competitive prices."

If proven, the practices under investigation may breach EU competition rules under Article 101 of the Treaty on the Functioning of the European Union (TFEU), which prohibits agreements between undertakings that

prevent, restrict or distort competition within the EU. The Commission has stated that it will now carry out an in-depth investigation “as a matter of priority”.

In a press release, Insurance Ireland stated that it is “important to note that the European Commission has not reached any conclusions or made any findings in respect of Insurance Ireland”, and that it is fully cooperating with the Commission in its investigation.

2017 Dawn Raids

The opening of the formal investigation against Insurance Ireland follows the dawn raids carried out by the Commission in July 2017 at the premises of companies active in the Irish motor insurance market. The Commission had concerns that companies involved may have engaged in anti-competitive practices in breach of EU competition rules. The Commission officials were accompanied and assisted by their counterparts from the Irish Competition and Consumer Protection Commission (CCPC).

Marco Hickey is Partner and Head of the EU, Competition and Regulated Markets team at LK Shields Solicitors. Marco is the author of Merger Control in Ireland published by Thomson Reuters, which is the only book exclusively devoted to merger control in Ireland.

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