Final Report on the Sector Inquiry into Business Insurance in the territory of the EFTA States

EFTA Surveillance Authority

NON-CONFIDENTIAL VERSION

9 JULY 2008

For reasons of confidentiality, some company names have been excluded and figures in brackets indicate a range.

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1 Introduction

1.1 Background and aims of the inquiry

On 25 June 2005, the EFTA Surveillance Authority (the "Authority") decided to open a sector inquiry into the field of business insurance pursuant to Article 17 of Chapter II of Protocol 4 to the Surveillance and Court Agreement[1]. Business insurance is to be understood as the provision of non-life insurance products and services to any type of business irrespective of its size, form of organisation or legal structure. Large companies, small and medium sized enterprises, micro-companies and self-employed persons, for instance, are thus all considered to be purchasers of business insurance.

The sector inquiry was launched in order to examine whether anti competitive agreements or practices exist in the business insurance sector in territory of the EFTA States.

On 11 July 2007, the Authority published an Interim Report detailing its preliminary findings. The publication of the Interim Report opened a period of public consultation. On 25 January 2007, the European Commission (the "Commission") also published an Interim Report in its Business Insurance Sector Inquiry. On 25 September 2007, the Commission published its final report in relation to its sector inquiry (the "Commission's Final Report)[2]. The Authority's inquiry was to some extent modelled on the Commission's inquiry in order to allow joint assessment of the results where this is possible.

In the course of its inquiry the Authority has called upon insurance companies and other providers of insurance products and services, as well as reinsurers, insurance intermediaries, insurance clients, and EFTA State authorities to provide information. The analysis and findings of the sector inquiry are summarised in this concluding report.

The Commission's Interim Report and Final Report provide a detailed assessment of the business insurance sector in the EU and are referred to at certain points in this document.

Together, the Commission's reports and the concluding report of the Authority provide an in-depth analysis of the conditions of competition in the business insurance sector throughout the whole of the EEA.

1.2 Geographic coverage of the Authority's sector inquiry

Of the EFTA States, only Iceland and Norway were included in the investigation. This is because there are no providers of business insurance in Liechtenstein. Customers of

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[1] See: http://www.eftasurv.int/fieldsofwork/fieldcompetition/decisions/businessinsurance.pdf

[2] See:http://ec.europa.eu/comm/competition/antitrust/others/sector_inquiries/financial_services/business.html

business insurance in Liechtenstein obtain business insurance products from providers in other countries and in particular, the EFTA State of Switzerland[3].

1.3 Structure of the report

The report has concentrated on certain aspects of competition in the business insurance sector in the EFTA States. The report focuses on the financial aspects of the business insurance sector, market structure, entry barriers, distribution and horizontal cooperation.

For convenience, the list of definitions used in this concluding report is included as an appendix at section 9.2.

2 The nature and function of business insurance

This section summarises the key points in relation to the assessment of the relevant markets for the analysis of the functioning of competition in the business insurance sector.

2.1 Supply chain and basic structure

In order to analyse the business insurance market, it is helpful to put the market into a supply chain perspective (see Figure 1)[4]. In order to mitigate risk, insurers typically reinsure part of their portfolio through reinsurers. Reinsurance is generally sold direct (forward integration by reinsurer) or through a reinsurance broker. Brokers are intermediaries who are usually paid by the insured. Reinsurers may in turn also reinsure. This is referred to as “retrocession” or “re-reinsurance.”

Furthermore, insurers may sell directly to the insured (forward integration by the insurer) or through intermediaries such as agents (paid by the insurer), brokers (paid by the insured or insurer) or banks (may take the role of agent or broker). Insurers may also outsource loss adjusting and loss assessment activities[5].

[3] Norway, Iceland and Liechtenstein are the EFTA States that are signatories to the EEA Agreement. Whilst Switzerland is a member of the European Free Trade Association, it is not a party to the EEA Agreement.

[4] Each type of market participant in the supply chain is defined in the appendix at section 9.2.

[5] For a more detailed discussion of the role of insurance intermediaries, Cummins and Doherty (2006).

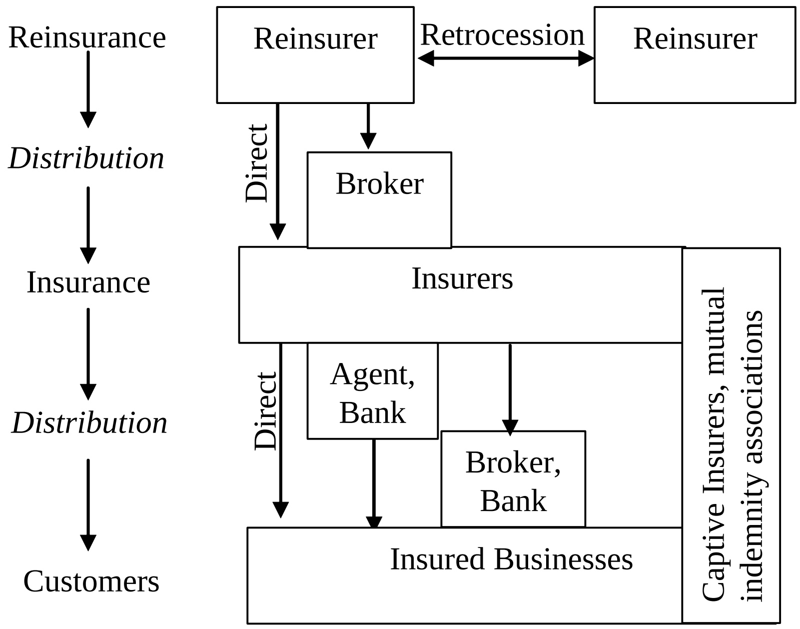

Figure 1: Illustration of supply chain for business insurance

Some insured businesses, typically large corporate clients ("LCCs"), backwardly integrate by establishing a captive insurance company through which they self-insure. Self-insurance is in principle an in-sourcing of insurance related activities. This and other types of vertical integration are discussed in more detail in sections 4.2 and 4.3 below.

Smith and Mayers (1982) argue that the shifting of risk from consumers to insurers can be beneficial to both consumers and insurers for three reasons. First, the insurer could achieve greater diversification benefits. Second, the insurer could achieve specialisation gains in risk evaluation and claims processing. Third, the insurer could provide inspection and safety services. The first reason in relation to diversification of risk, has given rise to some discussion regarding the use of money (financial) markets to diversify risk. The following sections consider the product market in greater detail from a demand and supply-side perspective.

2.2 Product market definition

The Authority's Interim Report considered product market definition in detail taking account of demand and supply-side substitution in the provision of business insurance products[6]. Insurance is the use of contracts to reduce or redistribute risk or uncertainty. In the insurance contract, the insurer accepts a payment or premium in advance. In return it undertakes to make payments to the insured if certain events occur. Hence, the insured trades an uncertain future loss against a certain payment today. On the demand-side, in principle, life and non-life insurance may be divided into as many product markets as

[6] See the Authority's Interim Report, pps 9-15.

there are categories of risk to insure. The characteristics, premiums and purpose of each insurance category are not substitutable for the consumer who wishes to obtain insurance cover for a particular risk. For the purposes of the Sector Inquiry, the product market or types of traditional insurance were classified as follows[7]:

- Property/Business Interruption
- MAT:
  - Marine
  - Aviation
  - Transportation
- Motor
- Liability
  - General Liabilities
  - Professional Indemnity/E&O
  - Environmental Liabilities
  - Directors' and Officers' Liability
- Personal Accident/Medical Expenses
- Credit and Suretyship

These are the insurance classes that were used in the Authority's survey of insurers and intermediaries. The insurance classes are rather aggregated and the product markets could in principle, still be considerably narrower and may be more fully examined on a case by case basis. The Authority's approach to the definition of relevant markets is without prejudice to the conclusions that might be reached by further investigation in any individual case.

2.3 Geographic product market definition

Historically, the insurance markets have been national despite efforts at regulatory integration to promote market integration. This is for a number of reasons most notably the fact that insurance contracts are concluding pursuant to national contract law as well as specific insurance law. Liability issues which arise under national law may differ from one jurisdiction to another. In addition, unlike in banking and other financial markets there is a need for physical presence in the business insurance sector. The preferred type of local presence is through a subsidiary or branch – typically established via acquisition rather than greenfield investment. Sustainable differences in premium levels and profitability between countries also appear to exist, at least in the five year time period investigated the Authority and the Commission. These factors amongst others suggest that the geographical extent of the product markets is likely to be national. However, this

[7] For a description of each class, see definitions in the Appendix at Section 9.2.

finding is without prejudice to the conclusions that might be reached in any individual investigation[8].

2.3.1 Geographic markets - Norway

The Authority's survey data on cross-border insurance are of limited statistical significance. However, the responses suggest that cross border insurance was very limited and accounted for less than 1.4% of total gross premiums written (see Figure 2 below). This was also the case in all the insurance classes considered, except for Marine where the share of cross border insurance was in the range of 15-20%. One explanation for this phenomenon could be that all classes except for Marine are national in scope.

A potential weakness of the Authority's survey data is that is only registers foreign policy holders' insurance purchases in Norway and Iceland. Insurance purchased by firms from insurers or intermediaries outside these countries is not measured. This is a weakness if the cross border purchases are vary significantly. If for instance, firms in Norway and Iceland purchase more insurance abroad than foreign firms do from Norwegian and Icelandic insurers and intermediaries, the markets could be broader than suggested by the cross border data of the survey (and vice versa).

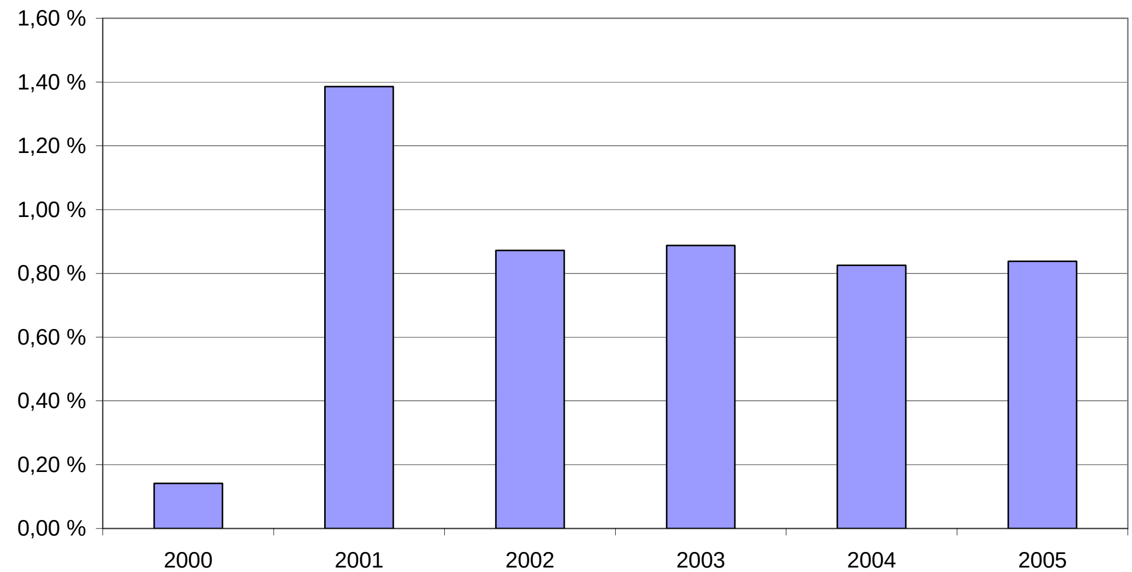

Figure 2: Cross-border insurance as share of total gross premiums written in Norway for 2000-2005 (Source: Authority Business Insurance Survey 2005)

The Authority's survey data indicates that the marine market appears to be international[9]. This is supported by the findings of the Norwegian Competition Authority (2006) which stated that:

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[8] For a more detailed discussion of geographic market definition, please see the Authority's Interim Report, p. 15.

[9] The respondents were not active in all insurance classes.

> *"Marine insurance distinguishes itself from the other product groups as a market with a greater number of suppliers, where market concentration is significantly lower than for other product groups. First, customers are businesses. Further, marine insurance is most likely to be an international market where offers can be obtained from a number of foreign insurers. Market concentration for the four largest insurers in Norway in 2004, (Gjensidige, If Skadeforsikring, Vesta and Sparebank 1 Skadeforsikring) was 23 percent. When considering competition in the non-life insurance market in general, the impression can therefore become somewhat misleading if numbers from marine insurance are included."* (p. 15).

In order to demonstrate the misleading impression the inclusion of marine insurance might give, the Norwegian Competition Authority's report of 2006 indicated that the four largest insurers (Gjensidige, If Skadeforsikring, Vesta and Sparebank 1 Skadeforsikring) held a 92 percent market share of motor insurance to businesses.

The responses to the Authority's survey indicated that cross border insurance included both SMEs and LCCs. Hence, the purchase of cross border insurance does not seem to be a phenomenon specific to LCCs.

There were few complete responses from intermediaries to the Authority's questionnaires. However, the responses received also suggest that the Marine market is international. The conclusion in relation to other classes of insurance is unclear.

According to the Norwegian Banking Commission's report number 16, ("NOU 2007:1") brokers consider the Marine insurance market as one which is segmented into coastal vessels and international vessels (so-called "blue water")[10]. The customer behaviour and market structure of these two segments are very different.

The coastal vessels segment resembles that of other land based non-life insurance, whereas the international vessels segment appears to have low barriers to entry to the leading markets in Europe, USA, and Asia. Approximately two thirds of the revenues of Norwegian marine insurance companies are from international clients. Furthermore, Norway has two of the world's leading marine insurance companies: Gard and Norwegian Hull Club (NOU 2007:1). The market is described as mainly being one of cross-border insurance and business is not conducted through branches in Norway. Both Norwegian and foreign brokers operate in the Norwegian marine segment. As an example, NOU 2007:1 cites the insurer Gard, as conducting 90% of its business through brokers of which only 47% was transacted through Norwegian brokers.

However, the foreign share of domestic business insurance markets in Norway (mainly represented by If Skadeforsikring) was approximately 20-30 % in 2004[11]. Figure 3 shows that the presence of foreign branches is significant in many insurance lines in Norway. This seems to support the perception that there is a need for a physical presence or distribution network, which may limit the geographic reach of the firm.

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[10] The Banking Law Commission's report no. 16, NOU 2007: 1 Meglerprovisjoner i forsikring (Official Norwegian Report 2007: 1 Brokerage fees in insurance)

[11] Norwegian Competition Authority, 2006, Table 1.

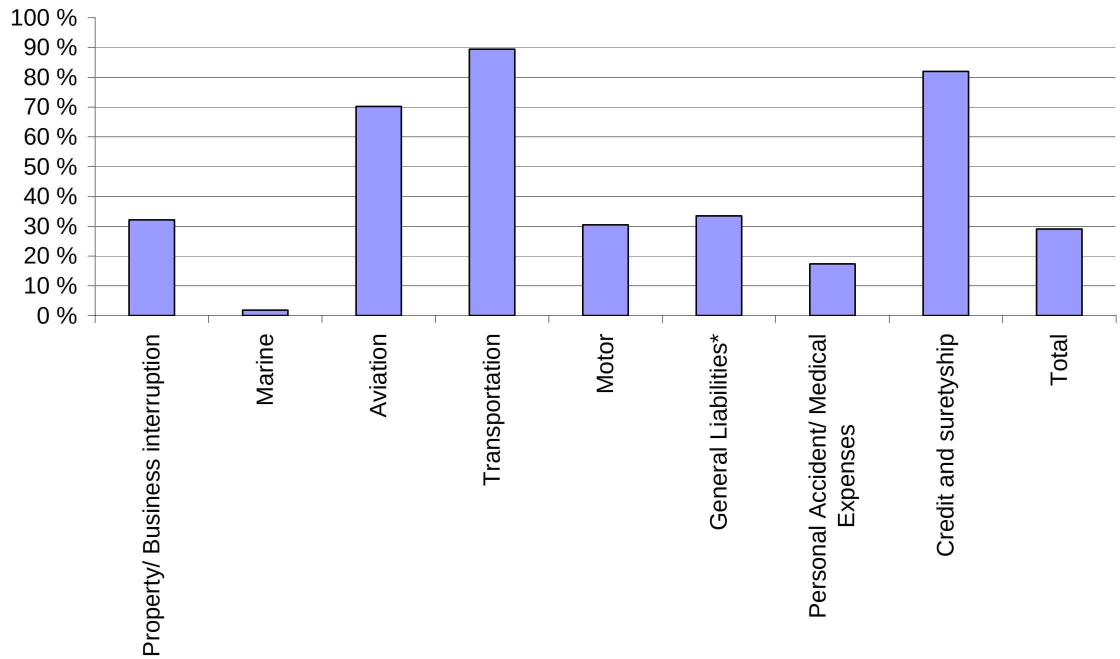

Figure 3: The share of foreign branches of gross premiums written including cross border insurance in Norway for 2005. General liabilities include professional indemnity, environmental and directors' & officers' liability (Source: Norwegian FSA)

The Authority's survey of national insurers and intermediaries did not include data on LCCs that purchase insurance directly from foreign insurers. However, this is presumably a small share of the market.

In the Authority's follow-up survey, five of six insurers considered the relevant market on which they conducted business to be national. One insurer considered it to be partly international. Some 40% of the Norwegian insurance customers surveyed responded that they could choose from foreign insurance providers. However, 64% of customers considered of importance for that their insurer to be domestic.

2.3.2 Geographic markets - Iceland

The Authority's survey responses from insurers suggest that there is no cross border insurance sold in any market in Iceland. Responses from intermediaries were insufficient to provide statistically relevant information. However, the responses suggest that liabilities may have been traded across borders for a period. This is apparently due to a significant asymmetry in cross border insurance purchases missed by the survey as mentioned in the previous section. Information provided by the Icelandic Financial Services Authority (the "FME") during the consultation period remedies this shortcoming. The FME stated as follows:

> *"foreign insurance companies have been providing cross border services in Iceland since 1995, either by providing services without an establishment or by opening a branch. Today there are about 280 foreign insurance companies licensed to offer cross border services in Iceland. Foreign insurance brokers have also been providing services in Iceland for some years. Today there are about 3.400 brokers/intermediaries registered in Iceland. There has been much*

> *competition between Icelandic insurance companies and foreign insurance companies since 1996. Some Icelandic companies have been authorized to conduct insurance business in other EEA countries since 1996."*

The FME therefore, considers that the relevant market for Icelandic insurers may well be wider than national.

In the Authority's follow-up survey, two of three insurers in Iceland considered their relevant market to be national, whilst the third considered it to be wider than national. Of the insurance customers surveyed, 29% responded that they could choose from foreign insurance providers. However, 50% of customers considered it important for their insurer to be domestic.

2.4 Conclusion as to geographic market definition

Limited conclusions may be drawn from the Authority's survey data. The findings of the Sector Inquiry are without prejudice to the conclusions that might be reached in any individual case. The views expressed by suppliers and customers seem to indicate that markets for supply of insurance may well be national. However, data indicating significant cross border flows suggest that for certain classes, the market may be wider than national. The market for brokerage services appears to be national or narrower. In addition, the conclusions of other studies seem to suggest that product markets (insurance classes) are national for SMEs, and possibly international for LCCs. Present indications are that the marine insurance for LCCs most clearly exhibits signs of being wider than national.

3 Financial aspects and market structure of the industry

This section primarily discusses the market structure of non-life business insurance including concentration levels and profitability ratios.

In common with the Commission's Concluding Report, the Authority has considered three main profitability measures: combined ratio, loss ratio and expense ratio [12].

The combined ratio is calculated by dividing the sum of incurred losses net of reinsurance and expenses by earned premium net of reinsurance. It is illustrated by the following formula:

$$\frac{\textit{Claims (net of reinsurance)} + \textit{Expenses incurred}}{\textit{Earned premiums (net of reinsurance)}}$$

This is termed the combined ratio and measures the amount that an insurer must pay to cover claims and expenses per Euro of earned premium. It is a suitable competitive benchmark because a value of 100% means that the insurance company is breaking even on its underwriting. If it is over 100% then the insurance company is making an underwriting loss and if it is less than 100% it is making underwriting profits. A ratio

[12] Note also discussion in the Commission's Final Report, Annex 3.

significantly below 100% might thus imply the existence of economic profits resulting from the exercise of market power. Accordingly, a ratio of 95% means the insurer makes five cents of underwriting profit for each Euro of premium[13].

The loss ratio relates to the largest of the cost components of insurers – the amount of claims experienced – to the total of net premiums earned, as shown by the formula:

$$\frac{\textit{Incurred losses}}{\textit{earned premiums}}$$

The expense ratio relates to the insurers' general expenses - such as general administration (e.g., salaries), marketing and litigation costs - to the total net of premiums earned. It is demonstrated by the formula:

$$\frac{\textit{Expenses (excluding losses)}}{\textit{earned premiums}}$$

3.1 Market concentration and measures of profitability in Norway

According to the Norwegian Competition Authority (2006), in Norway, the four firm concentration ratio (CR4) for various (land based) business insurance lines ranges from 80 to 90%, but is declining overall. The Norwegian Competition Authority found a Herfindahl-Hirschman-Index (HHI)[14] of around 2000 for most insurance lines which would provide confirmation of a high level of concentration. Hence, concentration levels seem to be higher in Norway than in most EU Member States (Commission's Interim Report, Table IV.3). However, in contrast to a declining level of concentration in Norway, the Commission's Interim Report suggested that concentration has been increasing over time in the EU (and the U.S.).

The overall HHI for all business insurance in Norway was 2442 in 2004, based on gross premium earned. In comparison, the overall HHI for the brokers' market in Norway of 1248 in 2006 was based on operating income (largely commission and fees)[15]. This

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[13] See Commission's Final Report, p. 6.

[14] The HHI is used as one possible indicator of market power or competition among firms. It measures market concentration by adding the squares of the market shares of all firms in the industry. Where, for example, in a market five companies each have a market share of 20%, the HHI is 400 + 400 + 400 + 400 + 400 = 2000. The higher the HHI for a specific market, the more output is concentrated within a small number of firms. In general terms, with an HHI below 1000 the market concentration can be characterised as low, between 1000 and 1800 as moderate and above 1800 as high.

[15] The number is based on data from the Norwegian FSA on business insurance ("næringslivsbetonte bransjer"). The numbers for insurers include foreign branches, the largest of which is IF Skadeforsikring with an overall market share of 22.3% of business insurance in 2004 If foreign branches are disregarded the, HHI for insurers is 3524.

suggests that the insurers' market is considerably more concentrated than the brokers' market.

The Norwegian Competition Authority (2006) also found some market share mobility for those business insurance lines it had considered. As regards profitability, the Norwegian Competition Authority concluded that the high level of profitability in recent years is more likely to be due to the effects of an insurance cycle (and fluctuations in financial income) rather than to the existence of anti competitive activity. This is supported by the development of the technical results of overall (consumer and business) non-life insurance (Figure 4 below). However, it cautions that the market should be re-examined at a later date to ensure that this is indeed the case.

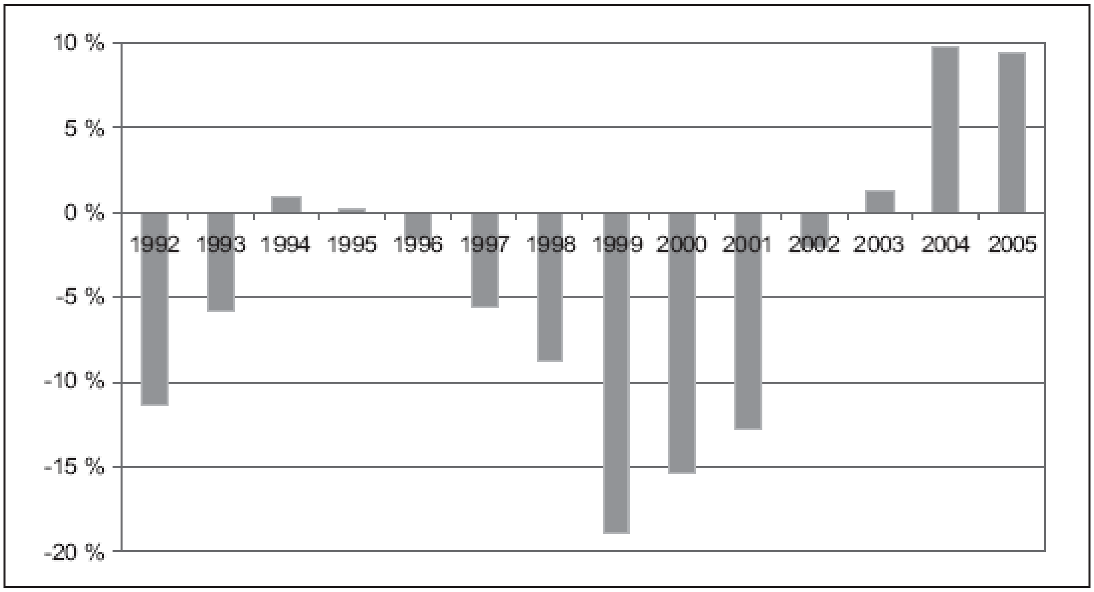

Figure 4: Technical result for total (consumer and business) non-life insurance in Norway. Estimated by 100 minus the combined ratio. Source: FNH (Norwegian Competition Authority, 2006, Figure 5).

The developments in Figure 4 correspond closely to the developments as described by Swiss Re (2006) of a profitability peak in 1994, a trough around year 2000, and another peak around 2004-5. This suggests an insurance cycle length of some 10 years. Comments received by the Commission during its consultation period during its sector inquiry suggest a cycle length "much longer than the six-year period considered"[16].

The Commission's Final Report finds that profitability varies greatly both between EU Member States and between insurance lines[17]. The loss ratio varies considerably between EU Member States, but it seems lowest in the years 2004 and 2005 for all EU Member States[18]. This trend also appears to be true for Norway as illustrated by Figure 7 below.

[16] Commission's Final Report, p. 17.

[17] For a more thorough discussion of challenges related to profitability measures in insurance, see Swiss Re (2006) and the Commission's Final Report Section II "Financial Aspects of the Industry."

[18] The Commission's Final Report, Figure II.3.

The (weighted) average loss ratio for all insurance lines increased in 2005 which might indicate the turn of an insurance cycle. Figure 7 also reveals a large variation in loss ratio between insurance lines.

The responses to the Authority's survey on insurance classes and profitability were mainly of limited statistical relevance. Hence, only some of the data have been used. Figure 6 shows the profitability ratios for some business insurance lines in Norway for 2005 (weighted by the company's total gross written premium excluding cross-border insurance in that line). It suggests that loss ratios vary considerably among insurance lines and that loss ratios are the main cause of combined ratio differences. The Authority's survey data also indicates that loss ratios varied considerably among respondents. Again, this was the main cause of combined ratio differences between firms.

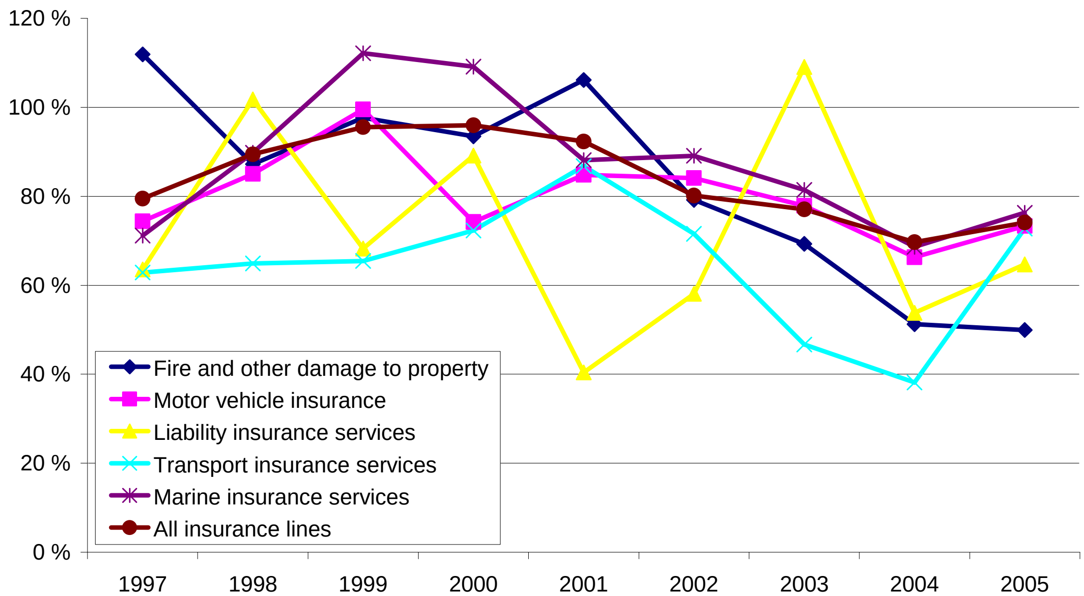

Figure 5: Loss ratio for some business insurance lines (Source: Statistics Norway)

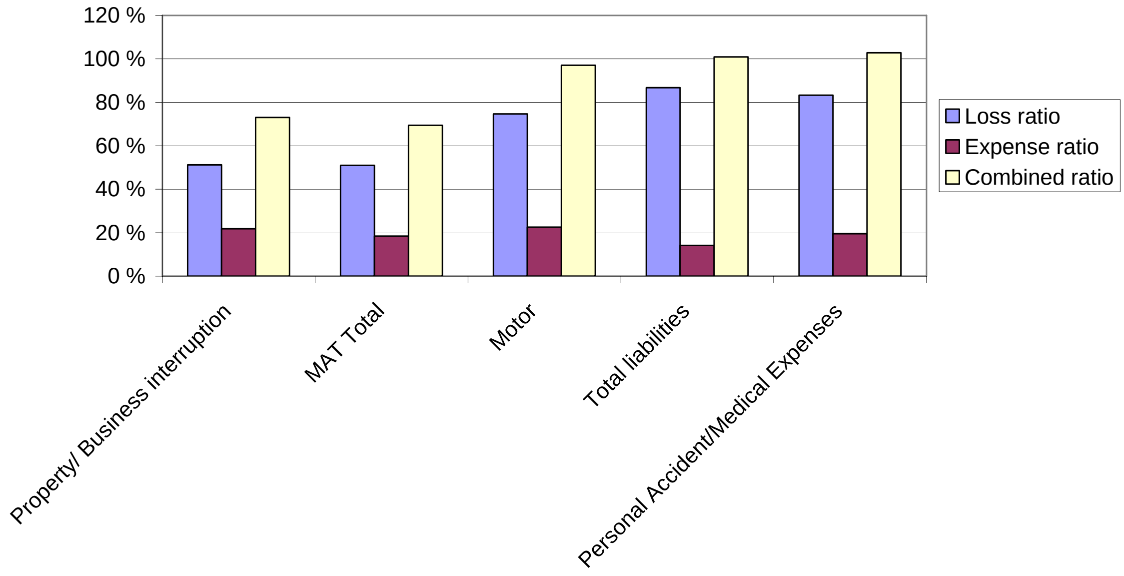

Figure 6: Weighted profitability ratios for some business insurance lines in Norway, 2005 (Source: Authority Business Insurance Survey 2005)

There also appear to be signs consistent with the claims shock theory. The premise of claims shock theory is that premium growth will follow claims growth, but with a lag[19]. As illustrated in Figure 7 below, this appears to have occurred for the Norwegian non-life business insurance market. The Norwegian Competition Authority (2006) found a similar pattern for the overall non-life insurance (consumer and business).

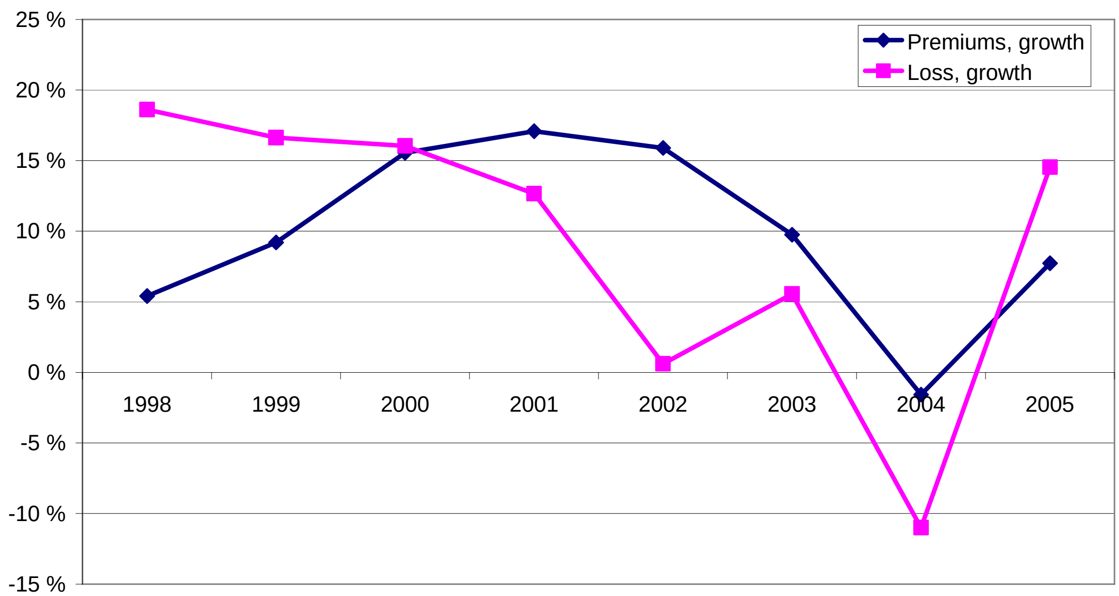

Figure 7: Growth in non-life business premiums and losses (Source: Statistics Norway)

[19] For a discussion of the theory of claims shock theory, see e.g. Cass Business School, (2003).

The Norwegian FSA also considered that cyclical variations in the claims ratio were explained by unexpected changes in claims expenses. The Norwegian FSA's explanation for the premium level lag is that it takes time for premium adjustment decisions to be reflected in the accounts of insurers, and because premium adjustments are delayed to determine whether the levels of claims are lasting or merely temporary, random fluctuations. This is illustrated in Figure 8 below over a longer time span (1987-2006) for the total non-life insurance market, including consumer insurance[20].

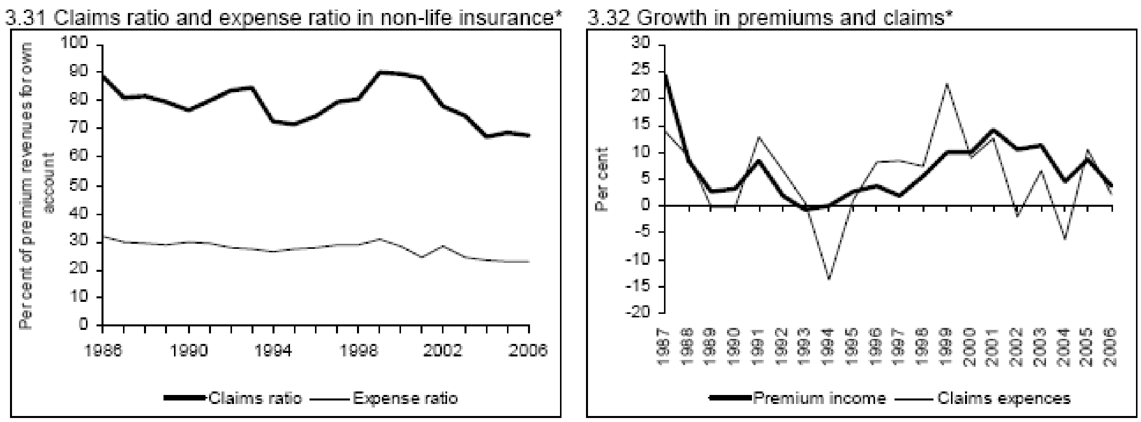

Figure 8: Claims and expense ratio in non-life insurance in Norway, 1986-2006 (Source: The Norwegian FSA, "The Financial Market in Norway 2006: Risk Outlook")

3.2 Market concentration and measures of profitability in Iceland

As illustrated in Table 1 below, the Icelandic non-life insurance market seems to be characterised by high concentration levels. HHI concentration ratios are between 2523 and 2978 whilst the four firm concentration ratio (CR4) ranges from 96% to 100%.

Table 1: Concentration measures based on total (consumer & commercial) written premiums for some insurance lines on Iceland, 2005 (Source: The FME)

Insurance line	HHI	CR2	CR4
Property	2 523	62 %	96 %
Motor	2 978	69 %	100 %
General liability	2 897	71 %	96 %

The responses to the Authority's survey on insurance classes and profitability were of limited statistical significance. Hence, only some of the data are relied upon in this report. Figure 9 below shows the profitability ratios for some business insurance lines in Iceland

[20]Norwegian FSA, "The Financial Market in Norway 2005: Risk Outlook" and "The Financial Market in Norway 2006: Risk Outlook".

for 2005 (weighted by the companies' total gross written premium excluding cross-border insurance in that line). It suggests that loss ratios vary considerably between insurance lines and appears to be the main cause of combined ratio differences. The survey also suggested that loss ratios varied considerably among respondents, and again that this was the main cause of combined ratio differences between firms.

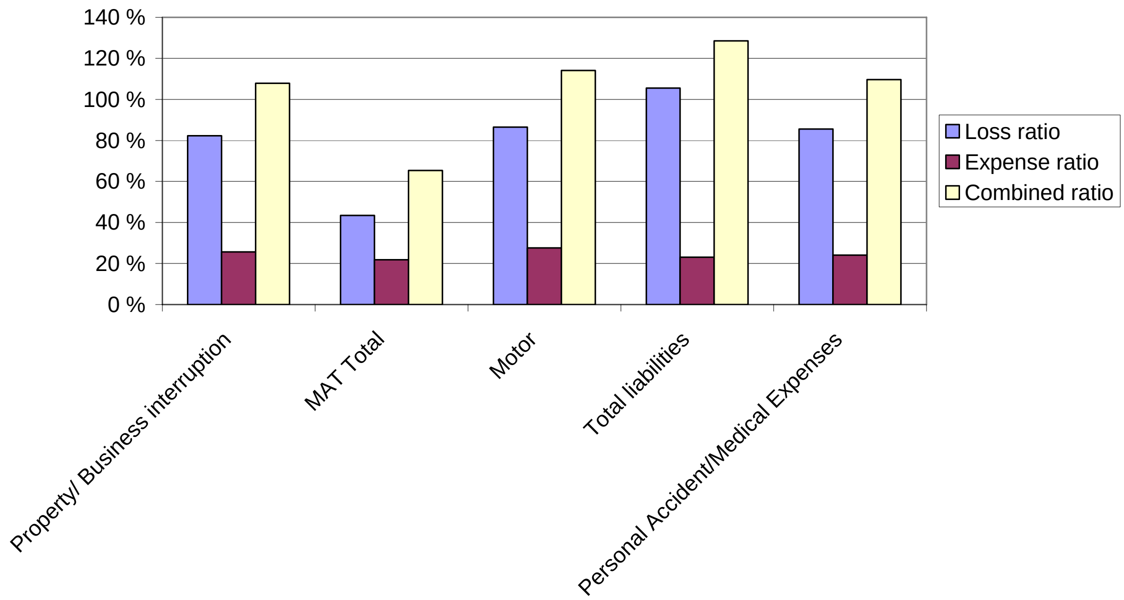

Figure 9: Weighted profitability ratios for some business insurance lines in Iceland, 2005 (Source: Authority Business Insurance Survey 2005)

Figure 10 below shows loss ratios for total insurance (consumer and business) over time for some insurance lines. Although not directly comparable with the ratios used in the Authority's survey, the data set is more complete and includes all insurance companies.

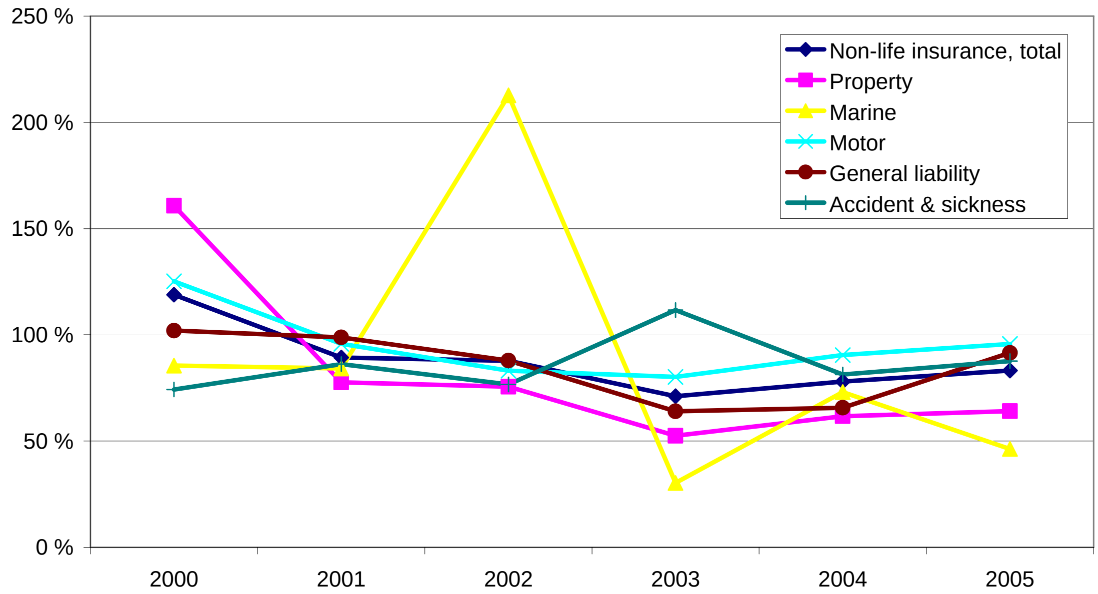

Figure 10: Loss ratio (claims incurred/earned premiums) for various insurance lines (consumer and business) in Iceland (Source: The FME)

Figure 11 below shows expense ratios over time for total insurance (consumer and business) for some insurance lines. The Authority's survey indicated that expense ratios were of limited relevance.

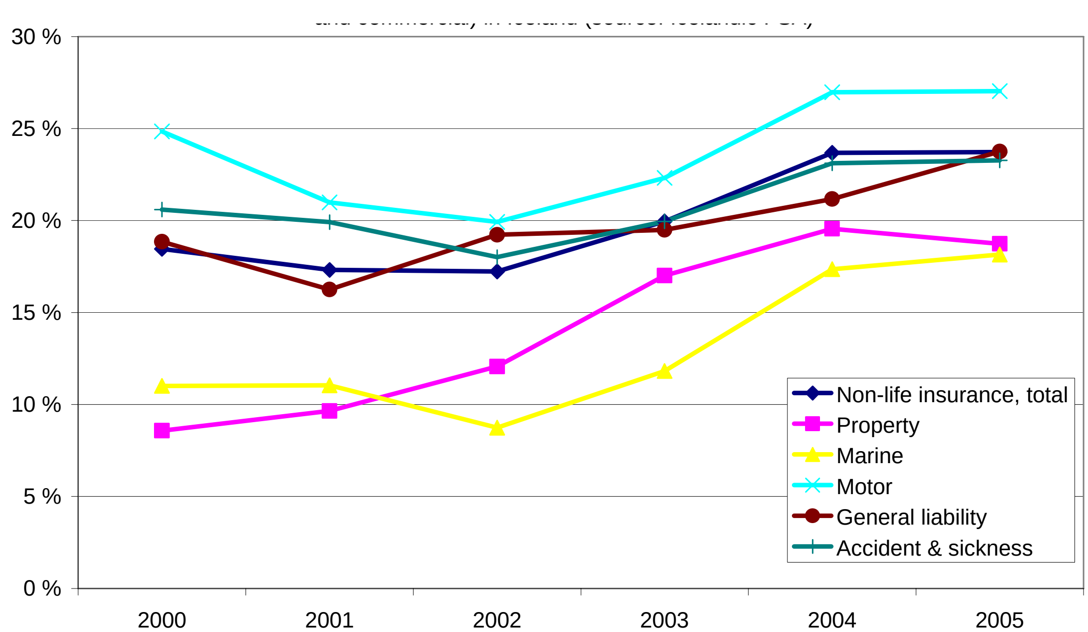

Figure 11: Expense ratio (net operating costs/earned premiums) for various insurance lines (consumer and business) in Iceland (Source: The FME)

The profitability of the Icelandic total (consumer and business) non-life insurance market (Figure 12) seems to follow a cyclical pattern somewhat similar to that of Norway (see Figure 4 above). It also suggests a cyclical pattern with a slightly earlier peak, around the year 2003.

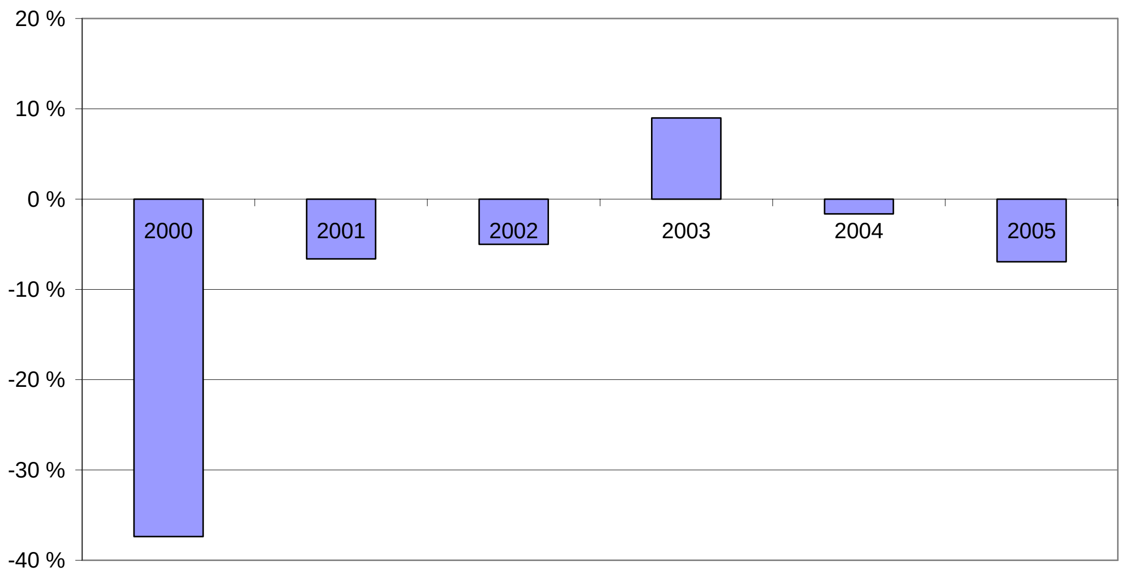

Figure 12: Technical result for total (consumer and business) non-life insurance in Iceland. Estimated by 100 minus the combined ratio. (Source: The FME)[21]

3.3 Conclusion as to market structure and profitability

The market structure appears highly concentrated and oligopolistic for most of the insurance classes which have been examined. This is on the basis of a working hypothesis that they constitute separate relevant markets. If the relevant markets are narrower, they could potentially be more concentrated. This would also imply that profitability should be measured for a narrower market.

A weakness of the analysis is the lack of cross border data which may tend to exaggerate concentration findings.

Regarding profitability, the data from the Authority's survey is incomplete, especially for earlier years. However, it suggests that there are considerable differences between insurance lines. For example, for some insurance lines in 2005 the differences between Norway and Iceland, are considerable, e.g., 30-40% point difference for property/business interruption and 20-30% point difference for total liabilities. In addition, prima facie, business insurance in Norway appears to have been less profitable overall in 2005 than in Iceland. However, as the main driver of combined ratio

[21] Combined ratio is estimated by (claims incurred/earned premiums) plus (Net operating costs/Earned premiums).

differences seems to be the loss ratio, a longer time series should be analysed before conclusions may be drawn[22].

Using complementary data from other sources, it appears that both countries seem to have followed a similar insurance cycle, coming out of a trough at the end of the 90's and reaching a peak around 2003-2004. A concentrated market with stable market shares and above normal returns on capital would suggest that there are significant barriers to entry. However, the data available is insufficient to draw such conclusions. The Authority also examined entry barriers in more detail in order to assess whether barriers to entry are indeed high.

4 Entry barriers to the insurance markets of the EFTA States

Positive economic profits (i.e., in excess of a risk adjusted discount rate required by investors) should normally attract entrants which will cause an increase in supply, a downward pressure on premiums and a reduction in profits. However, barriers to entry may prohibit such an outcome and permit sustainable high margins, resulting in a higher dead-weight loss[23] and lower consumer welfare than if barriers were reduced.

Of the insurers responding to the Authority's survey, less than 15% had entered into other EEA States in the past 10 years. This suggests that there is not a great deal of horizontal entry across borders. Entry has occurred mainly through acquisition of local insurers, but also through establishing branches. None of the respondents indicated that they had exited from other EEA States in the past 10 years. Entry by acquisition does not in principle increase competition. However, the added capital and expertise brought by new ownership has the potential to enable the acquired company to become a stronger competitor.

According to the Norwegian Competition Authority (2006), most entrants into non-life insurance focus on a niche and remain small. However, there were indications that entrants with well developed physical infrastructure might grow, as shown by the example of the Norwegian insurer, "Terra Gruppen"[24].

Vertical integration could potentially be a disciplining factor on insurers in the market. Intermediaries, such as brokers and banks, who are familiar with both the product and geographical market, may well possess a good deal of knowledge about risk and client requirements. A press report in 2007 announced that four regional Norwegian banks had decided jointly to establish both a life and a non-life insurance company. The decision

[22] In its Final Report, the Commission also points out that the definition used for combined ratio will tend to exaggerate profitability.

[23] The term deadweight loss (also known as excess burden or allocative inefficiency) refers to a loss of economic efficiency that may occur when the equilibrium for a good or service is not optimal.

[24] Terra Gruppen presently consists of about 80 local savings banks and is one of the three large groups in the Norwegian savings bank system. Terra Gruppen banks have experienced downward pressure on interest margins in recent years, reflecting the general trend for the Norwegian banking sector. The banks have accordingly focused on increasing their sales of other financial products such as insurance to replace falling interest margin income.

was motivated by the high earnings in the insurance market in recent years[25]. About a year later, additional independent banks joined, thirteen in total, forming the new insurance company “Frende Forsikring” which was granted a licence by the Norwegian FSA in November 2007[26].

Banks have the obvious advantage of having both physical infrastructure as well as being able to sell insurance products to clients in conjunction with banking services and products. Furthermore, they are knowledgeable in respect of risk diversification and credit worthiness of clients. In addition, as banks, they may have some financial strength. As such, independent banks acting as intermediaries may constitute credible, potential new entrants into the insurance market.

4.1 Regulatory restraints as to market entry

Regulation may represent a barrier to entry if strict requirements are set for licensing insurers. In order to promote the market integration of insurance services across the EEA, a home country regulation of the insurers applies pursuant to EEA law, i.e., foreign branches are governed mainly by the regulation of the country in which they are incorporated (Norwegian Competition Authority, 2006).

4.1.1 Licensing requirements pertaining to insurance activities in Norway

On the basis that there are 44 licensed non-life insurers in Norway, it would appear that licensing is not a significant barrier to entry. In a follow-up survey conducted by the Authority, only one third of insurers considered national regulation to be a barrier to entry. One insurer considered the capital reserve requirement to be a barrier to entry.

Foreign branches may be licensed, but among other things, will not be required to satisfy Norwegian equity and solvency requirements. In a survey carried out by the Norwegian Competition Authority (2006), 39% responded that they considered this to be a barrier to entry or growth[27]. Norwegian branches of foreign insurers had a share of nearly 30% of the total non-life insurance market, including consumer insurance in 2004[28]. This is a considerably higher level than in comparison with other European countries[29] and is likely to be attributable to the strong presence of If Skadeforsikring in Norway. A further possible explanation for the high share of foreign branches in Norway might be attributable to the regulatory advantages on offer.

[25] “Banker satser på lønnsom forsikring”, Bergens Tidende, 18. April, 2007, part I, p. 16.

[26] Source: www.frende.no

[27] The survey included only Norwegian insurers – due to home country regulation – and hence excluded one large foreign branch. 32 responses were received of which 23 were sufficiently complete to be used in the statistics. Of these 23, three were among the four largest insurers.

[28] Source: Norwegian FSA.

[29] The Commission’s Interim Report, Table V.1.

However, it should be noted that like Norwegian insurers, both foreign branches and cross border insurers have to contribute to the "Norwegian Natural Perils Pool"[30]. Norwegian insurers and foreign branches must also contribute to the guarantee arrangement for insurance companies[31].

4.1.2 Entries and exits of insurers in Norway

Records of entries and exits by insurers from the Norwegian FSA shows that there were 20 entries (of which 9 were captive) and 17 exits (of which 1 was captive) in the period from 1995-2006. Thus the share of captives compared to the total number of insurance companies has increased during the period. Of the 20 entrants, 4 exited within the same period (of which 1 was captive). The average life span of these 4 firms which both entered and exited within the period was 5 years. This may be an indication that entry barriers are reasonably low, and similarly that the threat of entry is reasonably high. However, as the data is not available by insurance line, it does not provide additional insight into entry at that market level. Entering as a full range insurance provider may entail overcoming greater barriers than entering as a niche provider.

The fairly balanced number entries and exits may suggest that the market is mature and/or that entry and exit barriers are of similar magnitude[32]. The number is relatively high compared with the number of currently registered non-life insurers which is 44. Presumably most entrants and exiting insurers are well below average size.

4.1.3 Licensing requirements pertaining to insurance activities in Iceland

All insurance companies (limited and mutual) in Iceland, as well as foreign insurance companies from outside the EEA, must be licensed by the FME. Insurance companies licensed in other EEA countries may establish a branch in Iceland without requiring an operating licence from the FME[33]. Insurance companies licensed in other EEA countries may also provide services without a branch[34].

Minimum solvency margins for Icelandic non-life insurance companies amount to roughly 18% of written premiums on the company's own account[35].

In common with rules relating to brokers in Norway, Icelandic regulation of brokers aims at ensuring independence, but allows for commission to be earned by brokers from insurance companies. Brokers seeking an operating licence must declare that they are

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[30] "Norsk Naturskadepool" by law ensures a minimum obligatory coverage against natural perils. The coverage is automatic for property (buildings) which is insured against fire. The pool is administered by the Norwegian Financial Services Association (See: http://www.naturskade.no/default.aspx?m=64).

[31] "Garantiordningen for skadeforsikring" guarantees that claims will be paid up to a limit if the insurance company is unable to settle a claim (FOR 2006-12-22 nr 1617: Forskrift om garantiordning for skadeforsikring.)

[32] Entry into the distributor market is discussed at Section 5.1.2 below.

[33] Act on Insurance Activities, No. 60, 11 May 199, Article 2 and Chapter VII.

[34] Article 65 in Chapter VII.

[35] Articles 30 and 33 of the Act on Insurance Activities.

independent of insurance companies[36]. If a broker later enters into an agreement which limits its independence, this will render its operating licence void. Also, the FME will require an explanation if a substantial portion of placements occur with a single insurance company.[37] At the request of a client, the broker must disclose commissions from the insurance company resulting from its business with the client[38].

4.1.4 Conclusion as to barriers to entry

Despite some comments of brokers suggesting that national regulation and capital reserve requirements may be barriers to entry, there do not appear to be any significant regulatory obstacles to entry in Norway and Iceland. Indeed, the survey response from the Association of Norwegian Brokers suggests that brokers do not experience difficulties in entering a foreign market in the EEA because barriers to entry are relatively low.

4.2 Factors governing entry strategies by insurance companies

Insurers were asked to rank the attractiveness of the insurance markets of the EEA States from the perspective of potential entry. Figure 13 below shows the rankings based upon the responses of Norwegian insurers. The responses suggest that insurers find EEA States that are closer to their home market more attractive propositions (i.e., the Nordic EEA States and the United Kingdom).

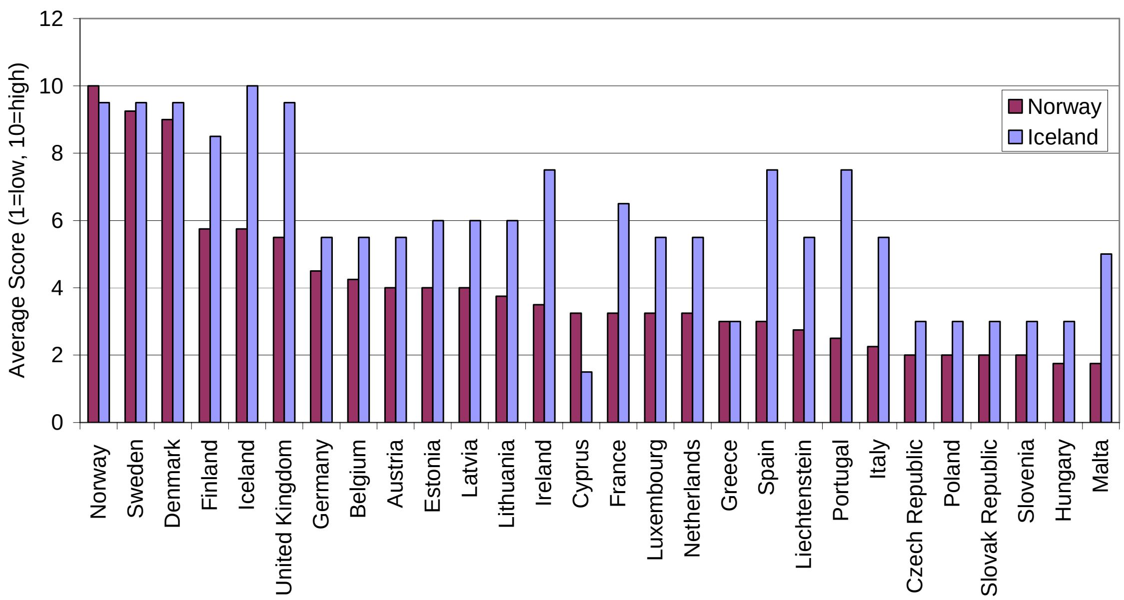

Figure 13: Market attractiveness, sorted by Norwegian insurers (Source: Authority Business Insurance Survey)

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[36] Regulation No. 853/1999 on Insurance Brokerage, Article 6-5.

[37] Article 16 Regulation No. 853/1999 on Insurance Brokerage.

[38] (Article 17, Regulation No. 853/1999 on Insurance Brokerage).

Insurers that had entered new markets during the past 10 years were asked which factors where of significant importance in their decision to enter such markets. A summary of the responses is provided in Figure 14. In addition, one insurer responded that following domestic companies to EEA markets was very important (rated at 10)[39].

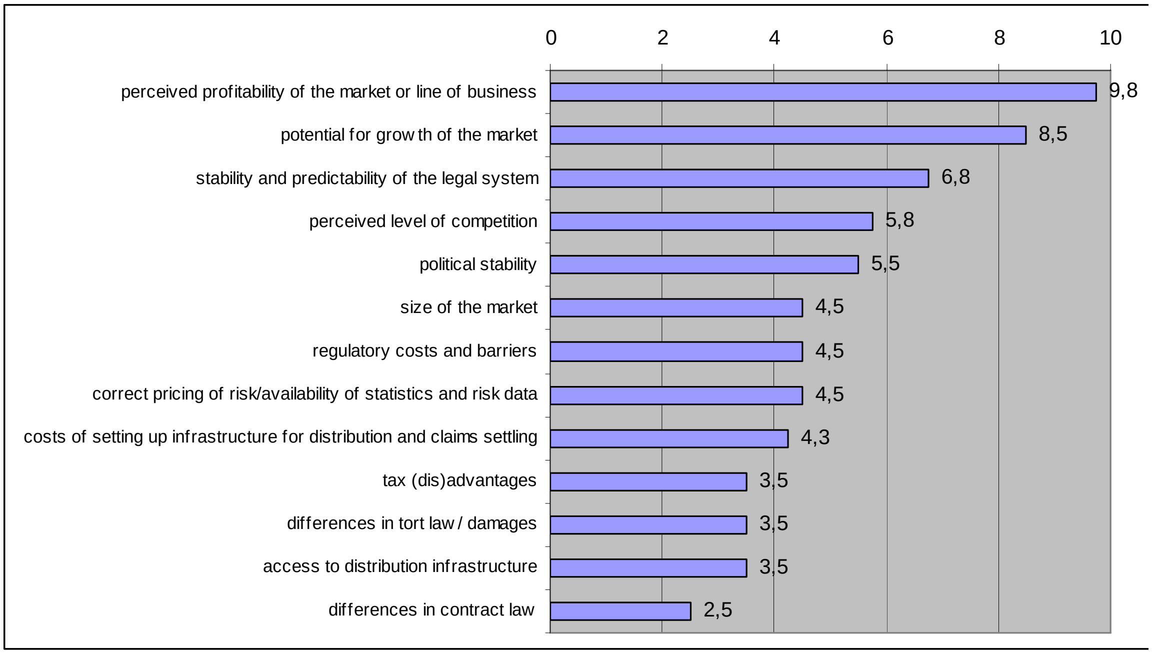

Figure 14: Factors of importance to entry for insurers, sorted by rating. (10 being a factor of very high importance, and 1 being a factor of very low importance). (Source: Authority Business Insurance Survey)[40]

A comparison of Figure 13 with Figure 14 seems to suggest that perceived profitability, potential for growth and legal and political stability are important drivers of the degree to which markets appear attractive to insurers. Presumably, entry will also be most likely to occur in markets that are geographically close together. This could be an indication that physical distribution network is important. However, this is not supported by the low rating of "access to distribution infrastructure" in Figure 14 which seems to suggest that infrastructure is not critical. In addition, entry has been into EU 10 countries which presumably have less mature insurance markets. This supports the contention that "potential for growth" as well as "perceived level of competition" are important factors to entry.

4.3 Economies of scale and captives as a source of market entry

The size of captives might be an indication of the upper limits of the minimum efficient scale of insurance activities (both diversification of risk and related services). Though

[39] Country ratings are not given as this could compromise confidentiality.

[40] All but one respondent had not entered another EEA state, hence the responses should to a large extent be considered hypothetical.

there could be other reasons for establishing a captive, their benefits would then have to exceed any scale disadvantage. If the disadvantages were large, this would be unlikely.

4.3.1 Captive insurers in Norway

13 of the 46 registered insurance companies in Norway (approximately 28%), are captives. The names of these captives are set out in Table 2 below.

Table 2: Norwegian insurers that are captive or captive in nature 2004 (Source: The Norwegian FSA)

Aker Insurance AS
Boligsamvirkets Forsikring AS
Det Gjensidige Forsikringsselskap Eksplosionsskade
Finse Forsikring AS
Forsikringsselskapet Eksplosionsskade AS
Industriforsikring AS
Landbruksforsikring AS
Norsk Legemiddelforsikring AS
Oslo Forsikring AS
Statkraft Forsikring AS
Statnett Forsikring AS
Statoil Forsikring AS
Telenor Forsikring AS

Figure 15 below illustrates the share of gross premiums earned by captives in 2005. Captives comprised 6 of the 21 largest insurers of non-life business insurance, and almost 4.2% of gross premiums written by domestic insurers including cross border insurance in 2005. For transport, captives comprise 2 of the 7 domestic insurers, and [10-20]% of gross premiums in 2005. For general liabilities including professional indemnity, environmental and directors' & officers' liability, captives comprise 6 of the 13 domestic insurers and over [10-20]% of gross premiums in 2005. However, in general, many captives are rather small and have less than one percent market share. Unless the markets are significantly narrower than the insurance categories used as a point of reference in this report, this could indicate that entry barriers are low[41].

Captives may eventually become divested and/or accept insurance in the open market. The establishment of captives by LCCs can thus be an important step on the way to becoming an ordinary, fully-fledged insurer. One example is “NEMI Insurance ASA,”

[41] Section 2.1 above for the list of categories.

whose predecessor was established in 1989, as a captive for Energy producers. Ten years later the owner-customer link was abolished. NEMI Insurance ASA has since grown into a multi-line insurer, partly through acquisition. It is currently a significant insurer in the Norwegian non-life market[42].

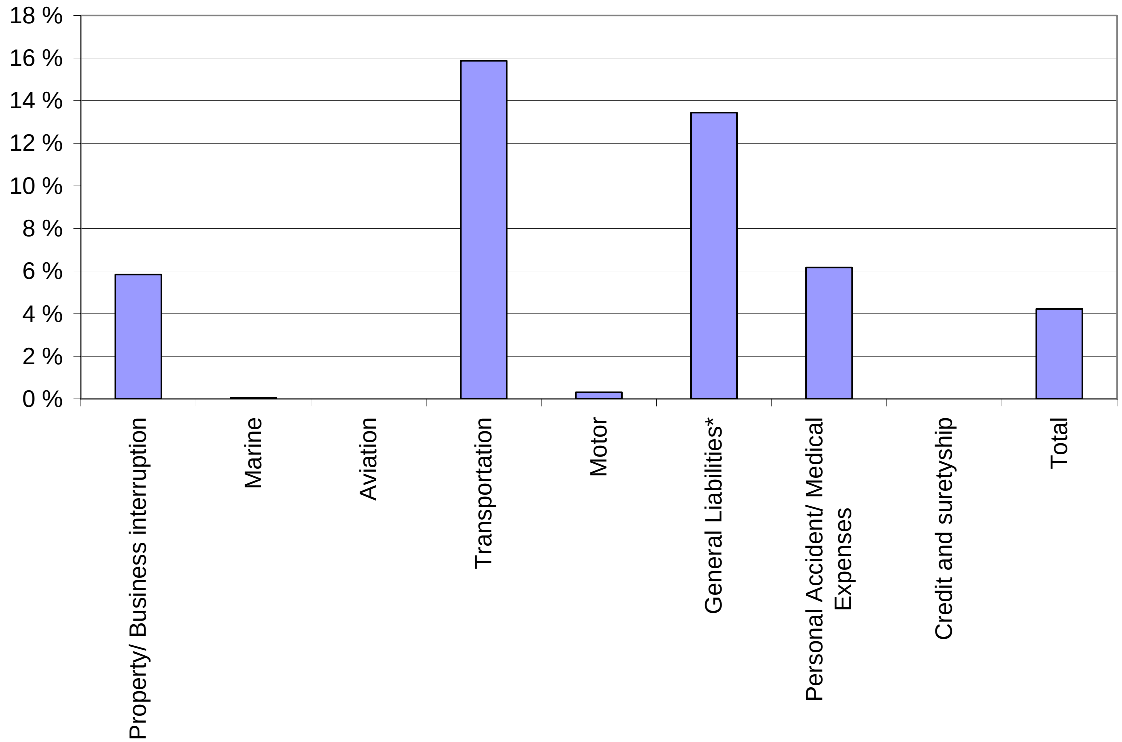

Figure 15: Captives' share of gross premiums written by domestic insurers including cross border insurance in Norway 2005. General liabilities includes professional indemnity, environmental and directors' & officers' liability (Source: The Norwegian FSA).

Although the captives are small in terms of market share, most of the parent companies are large by Norwegian standards. By pooling the needs of businesses in the insurance market, a traditional insurer should still be able to achieve similar economies of scale. As discussed earlier, there may be other reasons why such pooling might not be as cost efficient, for example, if transaction costs are considerable.

As described earlier, the presence of captives might be a signal that clients are attempting to avoid high mark-ups on reinsurance charged by insurers. If so, the absence of captives in the markets for motor and marine insurance suggests low gains from vertical integration perhaps due to low mark-ups (and perhaps some pressure from competitive forces). However, for the marine market, there may be captives established abroad because the marine market is rather international.

The above should demonstrate the need for further knowledge about the reasons for establishment of captives, their growth and continued life. Following the interim report, the Authority carried out a small scale survey of Norwegian business insurance

[42] Source: Nemi Insurance ASA : http://www.nemiasa.no/

customers. When asked how they would respond to an overall premium increase of 10 % in the market, the majority (59 %) stated they would continue to buy the same amount of coverage whereas 22% said they would reduce their insurance consumption. However, 15% responded that they would increase the use of captives or consider the use of captives suggesting that captives indeed are considered a protection from high premiums.

4.4 Marketing and brand recognition of insurers

Marketing, advertising or brand name recognition may be important factors for customers in determining which insurer to choose. Risk aversion could result in hesitation to try new, unfamiliar insurers. Thus, the relatively high cost of marketing expenditures may be a barrier to entry.

The Norwegian Competition Authority (2006) found in a survey that 59% of respondents considered that the requirement to conduct marketing and to build a brand name was a barrier to entry to some extent.

In the follow-up survey by the Authority, insurers were asked about the importance of brand recognition (Table 3 below). Two thirds of respondents believed brand recognition to be important or very important.

Table 3: Views of Insurers on brand recognition (Source: The Authority's follow-up survey, 2007)

How important is brand recognition when competing in your segment of the business insurance market? (1=Not important and 5=Very important)

.	Country		
..	IS	NO	Total
1	33,33 %	0,00 %	11,11 %
2	0,00 %	16,67 %	11,11 %
3	0,00 %	16,67 %	11,11 %
4	0,00 %	50,00 %	33,33 %
5	66,67 %	16,67 %	33,33 %
Total	100,00 %	100,00 %	100,00 %

Insurers were also asked what share marketing expenses were as a percentage of total expenses (Table 4 below). The average was just over 3% for Norwegian insurers and close to 7 % for Icelandic insurers. The highest share of expenses reported was 10 %.

Table 4: Share of marketing expenses as percentage of total expenses of insurers (Source: The Authority's follow-up survey, 2007)

What share are your marketing expenses as a percentage of your firm's total expenses (that is, the total expenses included in the expense ratio, hence excluding claims)?

	Country		
Data	IS	NO	Total
Average percentage	6,67	3,18	4,34
StdDev	3,40	3,24	3,68
Max	10,00	10,00	10,00

Customers where also asked how important brand image or reputation was when choosing an insurance provider (Table 5 below). Almost 60% considered brand image or reputation to be important or very important in both Norway and Iceland.

Table 5: Views of customers on brand image (Source: The Authority's follow-up survey, 2007)

Please rank the importance of brand image/reputation of the insurer when you choose insurance provider? (1= very important, 5= not important)

.	Country		
:	IS	NO	Total
1	7,14 %	18,52 %	14,63 %
2	50,00 %	40,74 %	43,90 %
3	21,43 %	33,33 %	29,27 %
4	14,29 %	3,70 %	7,32 %
5	7,14 %	3,70 %	4,88 %
Total	100,00 %	100,00 %	100,00 %

In summary, insurers in Norway and Iceland report that they spend 3-10% on marketing and brand building. Customers clearly consider brand image and reputation of insurers to be highly important when deciding which insurer to choose. Brand building and marketing costs may constitute a significant barrier to entry. Large insurers can achieve economies of scale by spreading their marketing costs over a large population of customers. The significance of brand image may vary across insurance lines, however, the survey data does not provide sufficient information on this question.

4.5 Distribution as a barrier to entry

In a survey of insurers performed by the Norwegian Competition Authority (2006), 13% of respondents considered that distribution or sales networks constituted a barrier to entry. Based on responses from Norwegian and Icelandic insurers to the Authority's survey, access to distribution infrastructure was however, ranked very low among factors of importance to entry (see Figure 12).

In its follow-up survey, the Authority asked insurance providers whether access to a physical distribution network/network of local offices/representatives constitutes a barrier to entry. The general response for Norway seemed to be that it did not, whereas it appeared to be more of a barrier in Iceland (Table 6 below).

Table 6: View of insurance providers views on physical distribution (Source: The Authority's follow-up survey, 2007)

Does access to a physical distribution network/network of local offices/representatives constitute a barrier to entry? (1=No barrier, 5=Very large barrier)

.	Country		
:	IS	NO	Total
1	0,00 %	33,33 %	22,22 %
2	33,33 %	0,00 %	11,11 %
3	0,00 %	50,00 %	33,33 %
4	66,67 %	16,67 %	33,33 %
Total	100,00 %	100,00 %	100,00 %

Of insurance brokers in both countries, more than 55 % of those surveyed considered that when targeting the nationwide market, having a national network of local offices (as opposed to just one local office in a major city) was important or very important.

Similarly, business insurance customers were asked how important it is that their insurer or agent/broker has local representation. Their responses suggest a large variation in views. However, more than 50% of customers in both Norway and Iceland reported such access to be important or very important.

Table 7: Customer's views on local representation (Source: The Authority's follow-up survey, 2007)

How important is it that your insurer or agent/broker has a local representation, for example, local office? (1 = Not important, 5 = Very important)

	Country		
.	IS	NO	Total
1	21,43 %	14,81 %	17,07 %
2	14,29 %	3,70 %	7,32 %
3	14,29 %	25,93 %	21,95 %
4	14,29 %	18,52 %	17,07 %
5	35,71 %	37,04 %	36,59 %
Total	100,00 %	100,00 %	100,00 %

The data was insufficient to suggest whether distribution was more important for certain types of insurance, customers, or insurers.

4.6 Information advantage of insurers

New insurers have a knowledge disadvantage compared with experienced insurers in determining specific risks which can act as an entry barrier. This has been recognised in studies prepared by other competition authorities[43]. Non-discriminatory provision of insurance data might remedy this. One example is the Centre for Insurance Statistics in the Netherlands which provides detailed information in relation to risk analysis as regards the Dutch market[44].

All respondents to the Authority's survey stated that they used their own, proprietary databases to determine premiums. These databases were not shared with competitors. Whereas utilisation of the databases of reinsurers was common among Icelandic insurers, this was hardly the case for Norwegian insurers. Use of databases of other parties, such as insurance associations, was virtually non-existent. These responses may be biased due to the over representation of large insurers. It may be that small insurers use external databases to a much larger extent. However, as discussed in section 4.3, the relatively large presence of captives, particularly in Norway, suggests that the necessary number of risk observations needed to determine premiums (or expected losses) may either not be that high, or the information may be readily available. If not, it should be difficult for LCCs to make a well informed decision as to whether to form a captive and self-insure.

[43] The OFT recognises that this may be the case in the UK liabilities market, albeit not a major barrier (2003, paragraph 5.15). The Irish Competition Authority also referred to insufficient availability of market data as representing an entry barrier (2005).

[44] Netherlands Competition Authority (2003).

In response to the Authority's follow-up survey, insurers responded that risk analysis, including difficulties in acquiring sufficient information about risk, constituted a slight to intermediate barrier to entry (Table 8 below).

Table 8: Views of insurers' concerning risk analysis as a barrier to entry (Source: The Authority's follow-up survey, 2007)

Does risk analysis (including difficulties in acquiring sufficient information about risk) constitute a barrier to entry? (1=No barrier and 5=Very large barrier)

.	Country		
:	IS	NO	Total
2	66,67 %	0,00 %	22,22 %
3	33,33 %	100,00 %	77,78 %
Total	100,00 %	100,00 %	100,00 %

However, the emphasis of insurers on the importance of proprietary databases was quite pronounced with the vast majority rating such databases as very highly important (Table 9 below).

Table 9: The views of insurers on the importance of proprietary databases (Source: The Authority's follow-up survey, 2007)

How important do you consider proprietary databases (used exclusively by your company) and experience to be in setting appropriate premiums (assessing risk)? (1=Not important, 5=Very important)

.	Country		
..	IS	NO	Total
4	0,00 %	83,33 %	55,56 %
5	100,00 %	16,67 %	44,44 %
Total	100,00 %	100,00 %	100,00 %

The insurers were also asked what would constitute a sufficiently large database (pool of observations) for setting appropriate premiums (assessing risk) for a typical insurance class for which an insurer was providing coverage. For example, 60 clients might be observed over at least 4 years in order to set a premium level. The responses varied greatly, presumably according to what is their main insurance class, but there was insufficient data to verify this. The main comment provided by insurers was that classes characterized by frequent losses typically need a shorter time series of data, whereas classes suffering from few, large losses need a much more substantial amount of data for reference purposes.

5 The distribution of business insurance

This section provides an overview of distribution structures in Norway and Iceland and considers whether access to distribution is a potential entry barrier. In addition, the recent code of conduct which introduced net quoting in Norway is discussed.

The Authority has examined sales of business insurance products by insurers through the following six distribution channels:

- Direct writing which concerns insurance arranged between the insurer and the insured party with no involvement of an intermediary (but including insurer's employed staff and call centres);
- Internet distribution which concerns insurance arranged by the insured party where the contract and underwriting is processed directly through the insurer's website;
- Exclusive agents who act as agents of an insurer and who are bound by exclusive agreements or otherwise constrained to refer business to that insurer;
- Other agents (or multiple agents) who are intermediaries who act under multiple insurer agency agreements.
- Insurance brokers who are intermediaries acting as agents of the insured party/insurance client and who are not tied or constrained by agreement to refer the business to any insurer in particular;
- Banks and other financial institutions who may act either as an insurance agent or as an insurance broker.

The share of brokers of distribution of non-life (consumer and business) varies significantly across the EEA. For example, the share of brokers is 85% in the Netherlands and only 7% in Italy. For the Nordic and EFTA countries except Iceland, the shares are as follows: Sweden 20-25%, Norway 18%, Denmark 10% and Finland 9%. The share of brokers of distribution of business insurance is typically higher. For instance, for Ireland, the total share of insurance placed by brokers is 68% whereas consumer and business insurance shares were respectively, 40% and 95% (Swiss Re, 2004).

5.1 Distribution channels in Norway

In Norway, there are 44 registered non-life insurance companies (business and consumer insurance). Of these, 13 have registered agents lists with the Norwegian FSA. The number of agents each insurer has listed ranges from 1 to well above 100. The Norwegian FSA has also 31 registered insurance agencies acting on behalf of foreign insurance companies (life and non-life). There are 67 registered brokers and seven registered reinsurance brokers (non-life and life)[45].

5.1.1 Importance of the various distribution channels

According to NOU 2007:1, in Norway for 2005, distribution through brokers represented 37.8% of premiums of the land based non-life insurance market and 30.4% of the marine, aviation and energy insurance markets. This seems to be in line with the responses received to the Authority's survey which indicated that distribution by brokers accounted for approximately 40% of marine and 50% of aviation premiums (see Figure 16).

Distribution by exclusive agents constitutes a very small proportion (+/-5%) of premiums written, and other (free) agents are virtually non-existent.

[45] Source: The Norwegian FSA at http://register.kredittilsynet.no/

The Authority's survey responses indicate that direct writing is the main method of distribution in Norway, but that this varies significantly between insurance lines. Brokers are the main distribution channel for marine, aviation and transport ("MAT"). This is in line with the description of the international (blue water) marine market described in NOU 2007:1 which estimates that more than two thirds of premiums are collected through brokers. Furthermore, NOU 2007:1 points out that brokers are particularly important to newly established insurance companies which frequently have a brokered share of near 100% of their total premiums. This finding is supported by the Authority's survey responses. Finally, responses from the insurance companies suggest that the internet is not used as distribution channel.

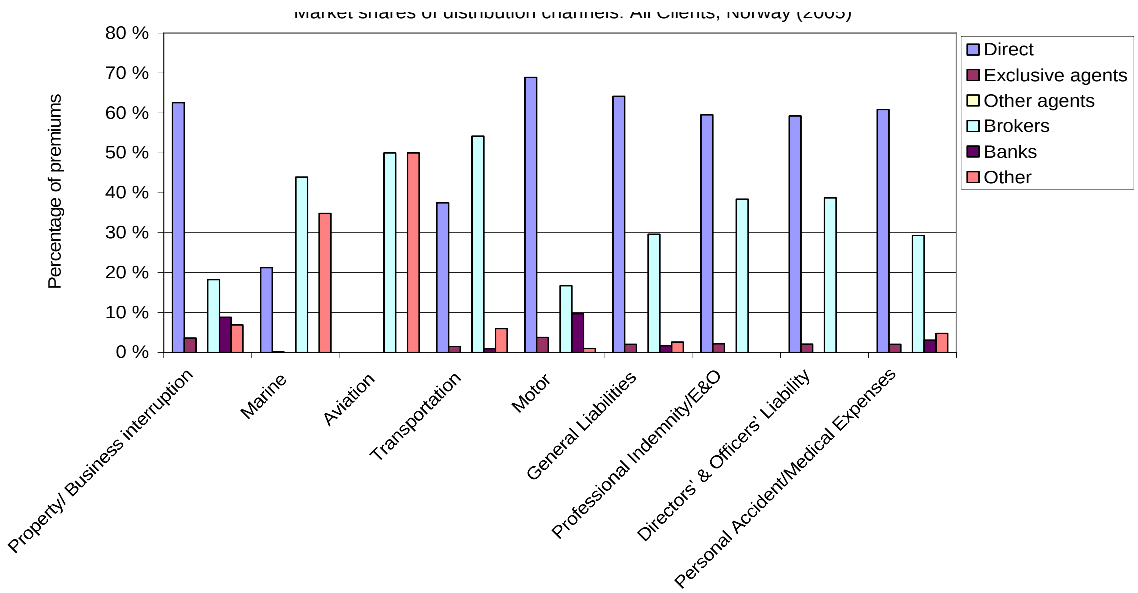

Figure 16: Market shares of distribution channels for Norway (Source: Authority Business Insurance Survey 2005.

The Authority's survey responses suggest that brokers handle only about four percent of the total number of clients. However, they handle the majority or about two thirds of the LCCs. From the Authority's survey responses, the number of exclusive agents the insurers had in 2005 ranged from 0 to 85 with an average of 21. There were no "free" agents among the Norwegian respondents, only exclusive agents. The exclusive agency contracts could be cancelled with six months' notice at most (by either party).

5.1.2 Entries and exits of distributors in Norway

Over the period 1995-2006 there were a total of 171 entries of insurance distributors in Norway. Of these, 18 where agents, 79 were banks, and 74 were brokers (reinsurance and insurance).

In the same period there were only 3 ordinary exits (all brokers), and there were 5 mergers/acquisitions. When compared with the equivalent data for insurers (see section

4.1.2 above), the market for distributors seems to have considerably lower barriers to entry.

The surprisingly low number of exits compared to entries may indicate that it is a growth market, or that exit barriers are large compared to entry barriers. The number of broker entries suggests that nearly all the currently registered brokers (67 insurance and seven reinsurance brokers) entered during the period 1995-2006.

5.1.3 Remuneration of intermediaries in Norway

The Authority's survey responses of insurance companies and brokers indicate that contingent commissions[46] are not used in Norway. The use of net quotes varies significantly between insurers and insurance lines. Net quoting refers to the practice under which insurance companies no longer pay commission to brokers for brokerage services but instead only provide net quotes. Under this system brokers charge purchasers of insurance directly for brokerage services. Unfortunately, the data from the Authority's survey are too limited to detect any significant patterns.

The Association of Norwegian Brokers estimates that the revenue ratio of commission to fees for brokers is approximately 70/30. Furthermore, the Association of Norwegian Brokers states that insurance companies do not provide net quotes for clients with a turnover of less than MNOK 50.

5.2 Distribution channels in Iceland

In Iceland six insurance brokers and a total of 12 insurance companies are registered with the FME[47]. According to the FME, four Icelandic non-life insurance companies are active on the market.

Based on the Authority's survey responses, which are of limited statistical significance, direct writing is the principal method of distribution in Iceland. Exclusive agents are the second largest channel with a share of premiums ranging from just over 5% to 30%. Other (free) agents have a minor share in some insurance lines. The responses received from insurers suggest that internet is not a significant distribution channel. According to the FME, brokers mostly conduct business in connection with foreign insurers, and there is active competition between these and domestic insurers.

[46] Contingent commissions refer to any kind of broker's commission which is contingent upon some event occurring (instead of a commission paid on the sale itself). In the UK this form of payment is known as "Overriders."

[47] "Entities supervised by the Financial Supervisory Authority in Iceland", http://www.fme.is/lisalib/getfile.aspx?itemid=3476

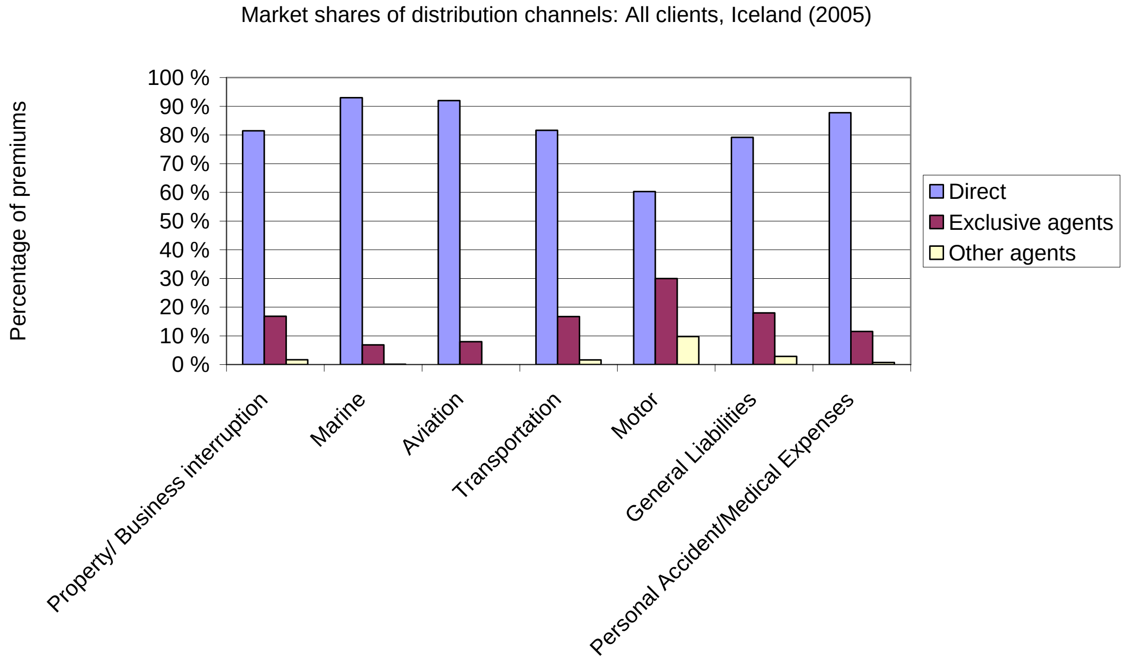

Figure 17: Source: Authority Business Insurance Survey 2005

The share of premiums handled by agents is below 30% of total premiums, whereas agents handle 38% of the total number of clients handled in Iceland. This implies that agents generally deal with below average-sized clients.

The average number of exclusive agents was about 33 per insurance company. The respondents with exclusive agents had agency contracts that could be cancelled with a period of up to six months' notice.

Based on the Authority's survey responses, the use of contingent commissions is very limited in Iceland both in terms of scale of premiums and scope of the markets. The use of net quotes varies greatly between insurers and insurance lines.

One Icelandic broker responded that it had experienced problems with obtaining coverage from local non-life insurance companies. This was particularly related to liability insurance which thus had to be purchased abroad. According to the broker: "In year 2002 a new insurance company was established, Islandstrygging hf, with the help of brokers and then for the first time non-life business was available to the Icelandic brokers through this insurance company." During the consultation period, the FME responded that: "Íslandstrygging hf., now named Vörður trygging hf., is the only domestic insurer which provides brokers with their compulsory liability insurance cover." The FME has also pointed out that a large number of foreign brokers and insurers are active in Iceland (see section 2.3.2 above).

Responses suggest that Icelandic brokers obtain a very small share of their total commission income from non-life business insurance. Since the survey period, at least one new broker has entered the Icelandic market[48].

Following publication of the Authority's interim report, Vordur Tryggingar Ltd. indicated that as the smallest of the four non-life insurers in Iceland, it had formal broker contracts with all of the Icelandic insurance brokers. It accepted their business and paid them an agreed commission. A substantial amount of this business is conducted on an annual basis and they consider this relationship to be working well.

5.3 Branch Norm abolishing commission to brokers 'net quoting'

Brokers perform a range of services both for insurers and clients which inherently tends to put them in a position where their objective advice to their clients may be influenced by their own commercial interests versus the insurers. Commissions paid by insurers to brokers in return for the placement of insurance is one example of such a source of conflict of interest. Net quoting is the practice of providing quotes to brokers on a net basis, i.e. without any element of commission payable to the broker. Instead of the broker receiving commission from the insurer, the broker requests payment for his services directly from the insurance client.

Swedish, Danish and Finnish insurers are presently obliged by law to quote on a net basis. Furthermore, in both Finland and Denmark, laws were passed recently which introduced a prohibition on the payment of commissions by insurers to brokers. In Finland and Denmark, brokers must now obtain their remuneration from their clients. The law was adopted in May 2006 in Denmark. However, it appears that prior to the adoption of the new law, Danish insurance companies had not been paying commissions to brokers, but instead quoted on a net basis.

In September 2003, the Norwegian Financial Services Association (the 'FNH') launched a new code of conduct of net quoting in Norway. The code of conduct is effectively a professional standard to which insurers may subscribe. According to the new norm, insurance companies should no longer pay commission to brokers for services that are considered to be performed for clients (i.e., purchasers of insurance), but only provide net quotes. According to the NOU 2007:1 report, most non-life insurance companies have adopted the norm except for some which operate mainly in the international market and certain niche companies.

The Norwegian Government has recently proposed a new law prohibiting the payment of commission from insurance companies to brokers for placement (intermediation)[49]. The proposal includes an exception from its application for reinsurance, marine and aviation insurance, as well as insurers not established in Norway. The rationale behind these

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[48] Aon opened an office on Iceland in 2006 (see http://www.prnewswire.co.uk/cgi/news/release?id=171951 and www.aon.com)

[49] Ministry of Finance, press release, published 21.12.2007, no.: 88/2007, http://www.regjeringen.no/nb/dep/fin/pressesenter/pressemeldinger/2007/Forbud-mot-provisjoner-til-forsikringsme.html?id=495011, and Ot. prp. Nr. 24 (2007-2008) "Om lov om endringer i innskuddspensjonsloven, forsikringsformidlingsloven, forsikringsloven mv."

exceptions in certain specialist insurance markets is that these are international insurance markets in which commissions are traditionally accepted and that regulatory intervention could put Norwegian providers at a disadvantage (Ot.prp.nr. 24 (2007-2008)).

The NOU 2007:1 report also describes the marine insurance market as highly competitive. Commission levels in the Marine and Energy insurance markets are approximately 5% to 7.5% (NOU 2007:1, p. 16). In the U.S.A., brokers average commissions of 16% in marine insurance and 8% for workers' compensation (Swiss Re, Sigma 2/2004, p. 26). It is also a market which is international at the broker level. According to Swiss Re (2004), both the global insurance broker and reinsurance broker markets are highly concentrated. The Authority's survey data suggests that the concentration ratios for Norway are on the whole lower (see Table 10 below).

Table 10: Concentration measures for various broker markets

Concentration measure	Norwegian insurance[50]	Global insurance[51]	Global reinsurance[52]
CR2	40 %	54%	-
CR4	58 %	66%	-
CR10	80 %	-	78%
HHI	1 181	-	-

In a public hearing on the newly proposed law to prohibit commissions from insurers to brokers, the Norwegian FSA stated that it did not see the need for such a law. In the experience of the Norwegian FSA, no concerns had been raised about the independence of brokers. The Norwegian FSA considered that ensuring the independence of brokers could be accomplished through the existing obligation on brokers to inform clients about such commissions[53].

The Norwegian Competition Authority, however, considered that the proposed law may produce pro-competitive effects, in part by increasing transparency for clients[54].

5.3.1.1 The views of the insurance companies in relation to net quoting

According to the insurance companies, the motivation for introducing the new code of conduct was apparently to increase transparency, ensure independence of brokers,

[50] Source: Authority Business Insurance Survey 2005, response of the Association of Norwegian Brokers.

[51] Source: Swiss Re (2004).

[52] Source: Swiss Re (2004).

[53] "Høring - NOU 2007:1 - Meglerprovisjon i forsikring," Norwegian FSA, 26 April, 2007 http://www.kredittilsynet.no/wbch3.exe?ce=18518

[54] "Høring - NOU 2007:1 - Meglerprovisjon i forsikring", Norwegian Competition Authority, 29 March 2007 http://www.regjeringen.no/upload/FIN/fma/Horingssvar/nou_%202007_1_meglerprovisjon_i_forsikring/konktilsynet_megler.pdf

increase competition for insurers and brokers, improve cost accounting for insurers, and to ensure that the customer who orders the services also pays for them (NOU 2007:1).

A key argument was that the code of conduct should solve the inherent conflict of interest arising when brokers receive payment both from their clients and insurers. Clearly, a commission from an insurance company could motivate a broker to promote an otherwise less attractive offer to his client. As clients rely on brokers to amongst other things, search for the best insurance offer, this is potentially a serious problem. Given the asymmetry of information between broker and client, it might be difficult for the client to detect such biased advice. It has also been suggested that increased price transparency in the broker market will stimulate competition between brokers and insurance companies and within the broker segment.

Increased price transparency may be pro-competitive in markets with low concentration levels because it may enable customers to make more meaningful comparisons of insurance offers. However, the opposite may be the case in highly concentrated markets where transparency may facilitate tacit collusion (Albæk, Møllgaard, and Overgaard, 1997). As mentioned above at 3.1, the HHI measures for the overall Norwegian insurance market (HHI of 2442 in 2004) and the brokers' market (HHI of 1248 in 2006) suggests that the insurance market is highly concentrated whereas the brokers' market is moderately concentrated.

The Authority asked insurers for their views on the effect of net quoting on competition in its follow-up survey. As illustrated by Table 11 below, the majority of insurers (67%) considered that net quoting would increase competition whilst a smaller percentage (22%) considered it would have no effect.

Table 11: Views of insurers on effects of net quoting on competition (Source: The Authority's follow-up survey, 2007)

What effects do such a net quoting practice have on competition?

.	Country		
:	IS	NO	Total
Decreases competition	0,00 %	16,67 %	11,11 %
Increases competition	66,67 %	66,67 %	66,67 %
No effect	33,33 %	16,67 %	22,22 %
Total	100,00 %	100,00 %	100,00 %

Insurers who considered that net quoting would increase competition were subsequently asked more specifically how they believed it would increase competition. These responses are summarized in Table 12 below. Insurers broadly considered that net quoting would increase competition between brokers, presumably through increased transparency of the costs of brokers to clients.

Table 12 Views of insurers as to how net quoting would increase competition (Source: The Authority's follow-up survey, 2007)

How does net quoting increase competition?

	Country		
Data	IS	NO	Total
Increases competition between brokers and insurers with in-house sales force	0 %	50 %	33 %
Increases competition between insurers with and without in-house sales force	50 %	50 %	50 %
Increases competition between brokers	100 %	75 %	83 %
Increases market access for insurers without in-house sales force	0 %	0 %	0 %
Increases transparency of broker costs to clients	50 %	100 %	83 %
Other	0 %	0 %	0 %

In addition, one insurer stated that prior to introduction of the new code of conduct, brokers could increase their income by choosing the most expensive insurer on the basis that their commission was a percentage of the premium.

Brokers mainly perform services for the clients, which the insurance companies often would otherwise have had to perform. In this way, brokers represent a form of outsourcing of the distribution. It also means that brokers are competing with the internal sales divisions of vertically integrated insurance companies. Furthermore, brokers also represent a potential distribution network which may facilitate entries by insurance companies with limited or no in-house sales divisions. According to the NOU 2007:1, small and medium sized insurance companies rely on external distribution systems and in particular, on brokers. The Authority received comments from one such insurer during the inquiry stating that:

> "The introduction of the [net quoting] system by law replacing broker commissions, will definitely be to the advantage of the larger insurance companies with large direct sales departments."

A similar view was expressed by another small to medium sized insurance company, Protector Forsikring ASA, in the context of the public hearing of the Norwegian legislative proposal. It stated that the new legislation:

> …*"[w]ill further strengthen the large insurance companies' dominance in Norwegian non-life insurance. In the market for small to medium sized businesses, the three large insurers (Gjensidige, If and Vesta) have approximately 90% market share. Especially in the lower part of the business market and outside the Oslo region such a limitation of freedom to make agreement will in practice strengthen the large insurers' that have a strong direct distribution channel."* (Ot.prp.nr. 24 (2007-2008), p. 5, unofficial translation).

In the Authority's follow-up survey, one Norwegian insurer responded that net quoting would decrease competition. Specifically, the insurer suggested that net quoting would reduce competition between insurers with or without in-house sales forces, by reducing competition between brokers, and by reducing opportunities for market access for insurers without in-house sales forces. Among the small to medium sized insurers who responded to the survey, there were opposing views on the effects of net quoting on competition.

The FNH also submitted two separate legal assessments to the Authority, which were prepared in 2003 by external lawyers examining the competition law implications of introducing the code of conduct of net quoting[55]. The two assessments reached opposing conclusions regarding whether the code of conduct infringes Article 53 of the EEA Agreement and Article 81 of the EC Treaty.

One of the opinions concludes that the net quoting code of conduct constitutes an agreement within the meaning of Article 53(1) of the EEA Agreement and Article 81(1) of the EC Treaty and which would not qualify for an individual exemption under Article 53(3) of the EEA Agreement or Article 81(3) of the EC Treaty. The reason being allegedly that the code of conduct amounts to a collective agreement between insurers not to pay commission to brokers, which has as its object, the restriction, prevention or distortion of competition in the broker's market.

By contrast, the other opinion, suggested that the code of conduct would not infringe Article 53(1) of the EEA Agreement or Article 81 of the EC Treaty. This is based on the principle that the code of conduct puts into practice the notion that the person who orders and uses a product or service also pays for it. Moreover, in the author's opinion, it is preferable in economic terms that such a change is necessary for the insurance market to function as a whole because it removes the conflict of interest between clients and brokers, improves transparency and will contribute to enhancing competition between brokers and between brokers and insurance companies.

5.3.1.2 The views of brokers in relation to net quoting

Brokers in the Nordic EU countries have raised concerns along the lines that net quoting (no commission to brokers) will have adverse effects on the broker distribution channel. The main argument is that the net quoting system will unfairly favour the in-house sales forces of insurers and agents to the detriment of brokers. This could lead to consolidation or restructuring of the brokerage industry or to relocation to other Member States. One outcome might be that brokers could progressively be driven out of the market with the possible consequence that clients would have more difficulty in obtaining independent service and advice.

The Norwegian Brokers Association protested against the imposition of the new code of conduct. According to the association, all agreements between insurance companies and brokers were terminated with three months' notice in May 2003, implementing the new code of conduct with effect from September 1 2003[56]. There have been several claims that insurance companies do not practice transparency in their price calculations, e.g., use different risk-calculations for brokers than for the direct selling channels[57].

In its follow-up survey, the Authority asked brokers what effects the practice of net quoting has on competition. The responses which are summarised in Table 13, indicate that the majority of brokers believe it will decrease overall competition.

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[55] One opinion was prepared by Dr. Heinz-Joachim Freund on behalf of the Bureau International des Producteurs d'Assurances et de Réassurances (BIPAR) and the other by the law firm BA-HR on behalf of the FNH.

[56] http://www.forsikringsmeglerne.no/summary.html

[57] Survey response from the Norwegian Brokers' Association to ESA.

Table 13: Views of brokers on net quoting effects on competition (Source: The Authority's follow-up survey, 2007)

What effects do a net quoting practice have on competition?

.	
..	Total
Decreases competition	57,14 %
Increases competition	28,57 %
No effect	14,29 %
Grand Total	100,00 %

Brokers who believed net quoting would decrease competition were subsequently asked how they thought it would reduce competition. The responses are summarised in Table 14. Brokers considered that the main effects of net quoting would be to reduce competition between brokers and insurers with in-house sales forces. They also considered that there would be a possibility of margin squeeze committed by insurers and a risk of reduced market access for insurers without in-house sales forces.

Table 14: Views of brokers as to how net quoting reduces competition (Source: The Authority's follow-up survey, 2007)

How does net quoting reduce competition?

	Total
Reduces competition between brokers and insurers with in-house sales forces	75 %
Reduces competition between insurers with and without in-house sales forces	25 %
Reduces competition between brokers	0 %
Reduces market access for insurers without in-house sales forces	50 %
Leads to margin-squeeze of brokers by insurers with in-house sales forces	25 %
Other	0 %

Brokers who believed it would increase competition were subsequently asked how this would occur. These responses are summarised in Table 15 below. These brokers considered that the main effects of net quoting would be increased competition between brokers and insurers with and without in-house sales forces, increased transparency of broker costs to clients, and an increase in market access for insurers without in-house sales forces.

Table 15: Views of brokers as to how net quoting increases competition (Source: The Authority's follow-up survey, 2007)

How does net quoting increase competition?

	Total
Increases competition between brokers and insurers with in-house sales forces	50 %
Increases competition between insurers with and without in-house sales forces	50 %
Increases competition between brokers	100 %
Increases market access for insurers without in-house sales forces	50 %
Increases transparency of broker costs to clients	50 %
Other	0 %

5.3.1.3 The views of customers in relation to net quoting

The follow-up survey conducted by the Authority, also asked customers how concerned they would be that commission to brokers could influence their advice. The responses are summarised in Table 16 and suggest that there is considerable concern among customers.

A possible explanation is that customers are not aware of these commissions or their nature. Indeed, in its Final Report, the Commission states that several of its UK respondents under-estimated the proportion of their premium comprised by commission. If this is the case, then a disclosure obligation might not fully mitigate the potential conflict of interest.

Table 16: Views of customers on commission to brokers (Source: The Authority's follow-up survey, 2007)

If your broker received commission from the insurance company as well, how concerned would you be that this could influence the broker's advice to you? (1 = Not concerned, 5 = Very concerned)

:	Country		
.	IS	NO	Total
1	21,43 %	14,81 %	17,07 %
2	7,14 %	14,81 %	12,20 %
3	14,29 %	11,11 %	12,20 %
4	7,14 %	37,04 %	26,83 %
5	50,00 %	22,22 %	31,71 %
Total	100,00 %	100,00 %	100,00 %

Finally, to the extent that many brokers are influenced by commissions when giving advice to their clients, their role is *de facto* more of an agent than a broker. Indeed, if the incentives provided by the commission are strong enough to induce a broker to favour one insurer exclusively, the broker would *de facto* be an exclusive agent. Introduction of net quoting might thus result in an apparent structural change in the market where seemingly independent brokers become agents or exclusive agents. However, on the basis that clients are likely to be more price sensitive than insurers it is likely that shifting the remuneration of brokers from insurers to clients, may well lead to reduction in profitability of brokers, forcing some to become exclusive agents.

5.3.2 Analysis of some preliminary data of the economic effects of net quoting

The Authority has considered some data on the effects of the introduction of net quoting. Figure 18 below suggests that the introduction of net quoting has (perhaps predictably) led to a shift towards client fees. This seems to correspond with a similar trend found in the EU which also started in 2003[58]. However, the development is more pronounced in Norway. Furthermore, the share of Norwegian brokers of client fees approach the levels of brokers in Denmark[59].

[58] The Commission's Final Report, Graph IV.9.

[59] The Commission's Final Report, Graph IV.8.

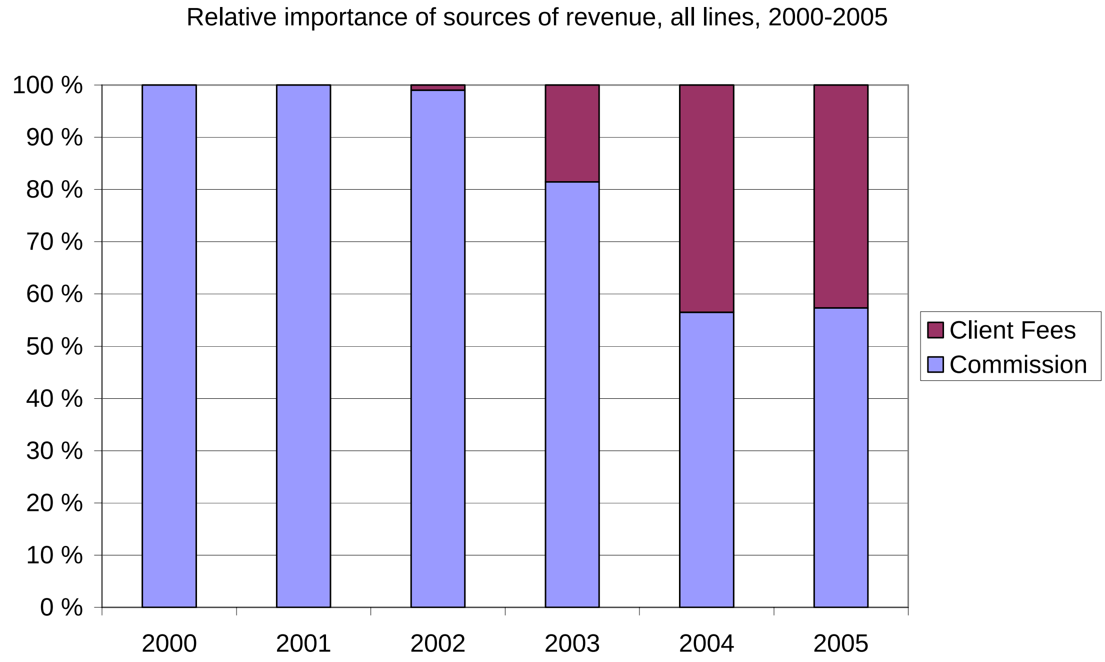

Figure 18: Source: Authority Business Insurance Survey 2005

The development of commission income from non-life insurance for brokers in Norway shows growth in the years prior to the introduction of the code of conduct, followed by a decline following its launch (Figure 19). Commissions from life insurance declines a year later from 2004.

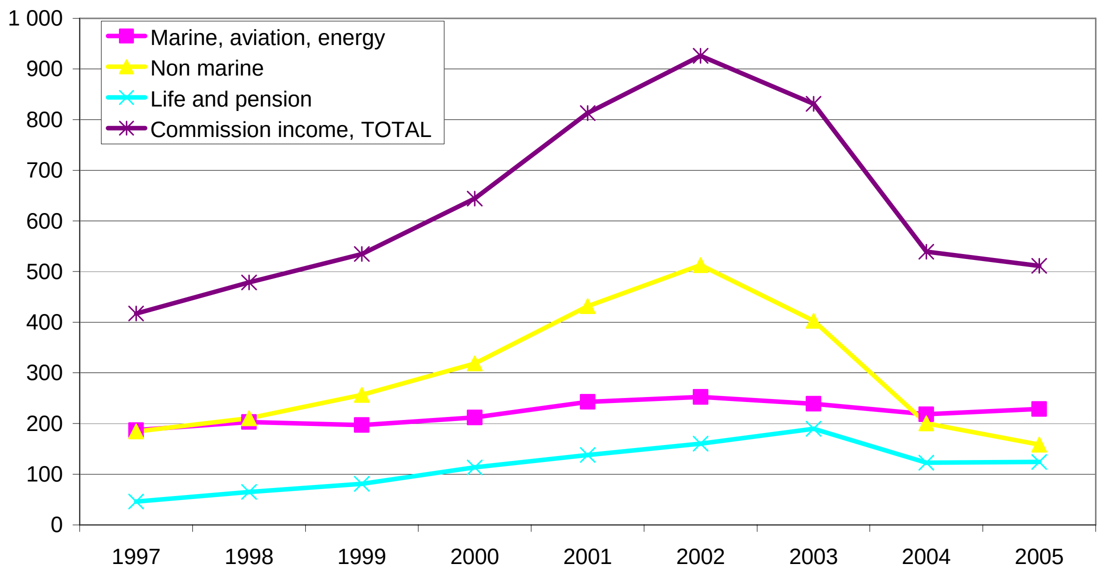

Figure 19 Commission income of brokers in Norway 1997-2005 in MNOK (Source: The Norwegian FSA) [60]

[60] Commission income in the figure includes energy and life and pensions, and commission from non-Norwegian insurance companies.

Insurance premiums for both non-life and life insurance increased during the entire period (see Figure 20). In the period prior to the introduction of the code of conduct, brokers' operating income was increasing. However, there was a decline in the operating income which appears to coincide with the introduction of the code of conduct. Simultaneously, there is a marked shift from commissions to fees (which together constitute the majority of brokers operating income). The Norwegian FSA began collecting data on fees from brokers in 2003. In absolute terms, the increase in fees seems to offset the decline in commissions. However, considering the development of insurance premiums, it seems as if the brokers' operating income is declining relative to insurance premiums following the introduction of the code of conduct.

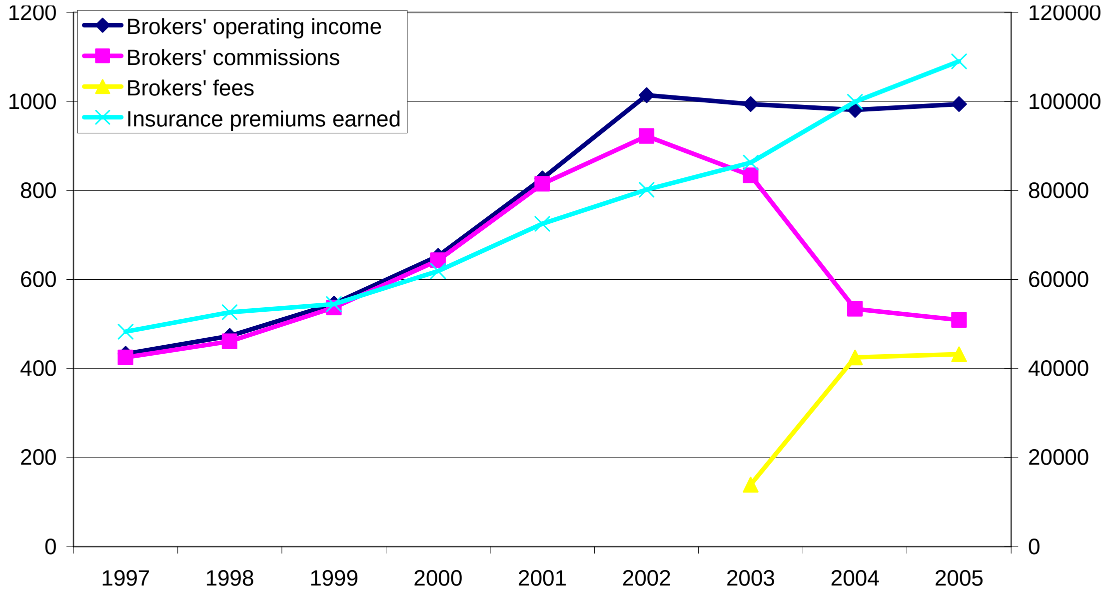

Figure 20: Total insurance premiums brokers' operating income, commissions, and fees in Norway in 1997-2005 in MNOK (insurance premiums on right axis). (Source: Statistics Norway)[61]

Brokers receive the majority of their commission from MAT and other insurance lines, whereas they receive the majority of their client fees from property, liability and other lines (Figure 21).

[61] Includes both life and non-life insurance and both consumer and business insurance.

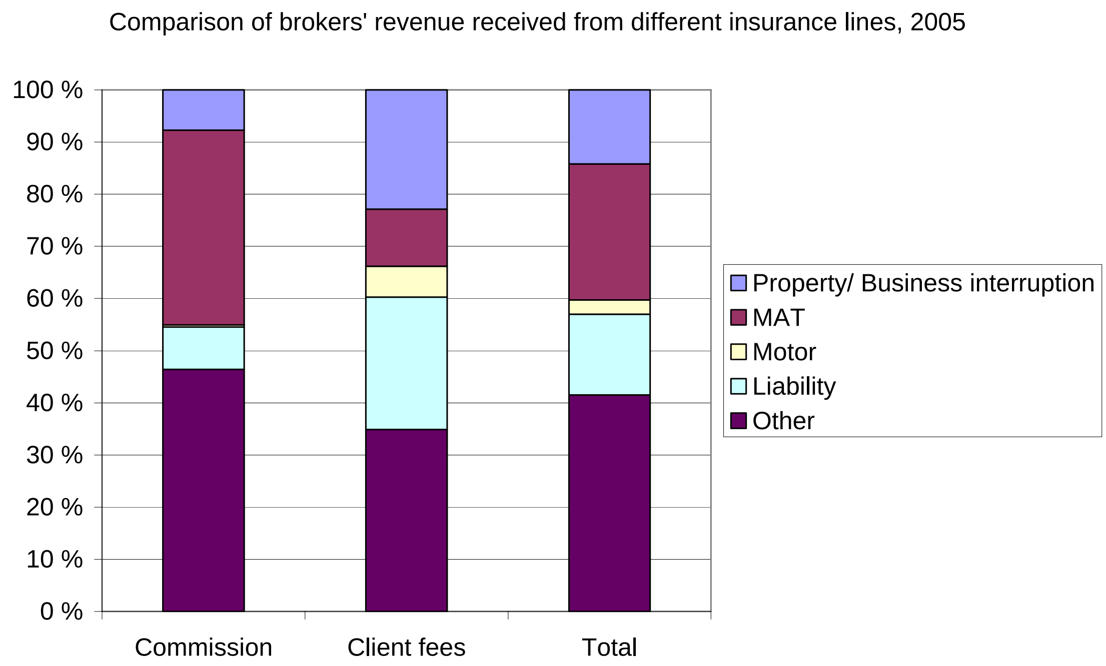

Figure 21: Source: Authority Business Insurance Survey 2005

Data collected during the sector inquiry indicate that since net quoting was introduced in September 2003, there has been a significant shift in terms of revenues per client segment (Figure 22Figure 22). The data demonstrate that LCCs provided almost 70% of broker revenues prior to the change in the code of conduct, but only 40% afterwards. This could indicate that brokers are losing LCCs as clients, or that brokers have reduced their prices (i.e, the sum of fees and commission) on LCC transactions. A survey performed by the Association of Norwegian Brokers in 2004, covering the 115 largest companies in Norway, revealed that 80 percent used external insurance brokers[62].

[62] http://www.forsikringsmeglerne.no/summary.html

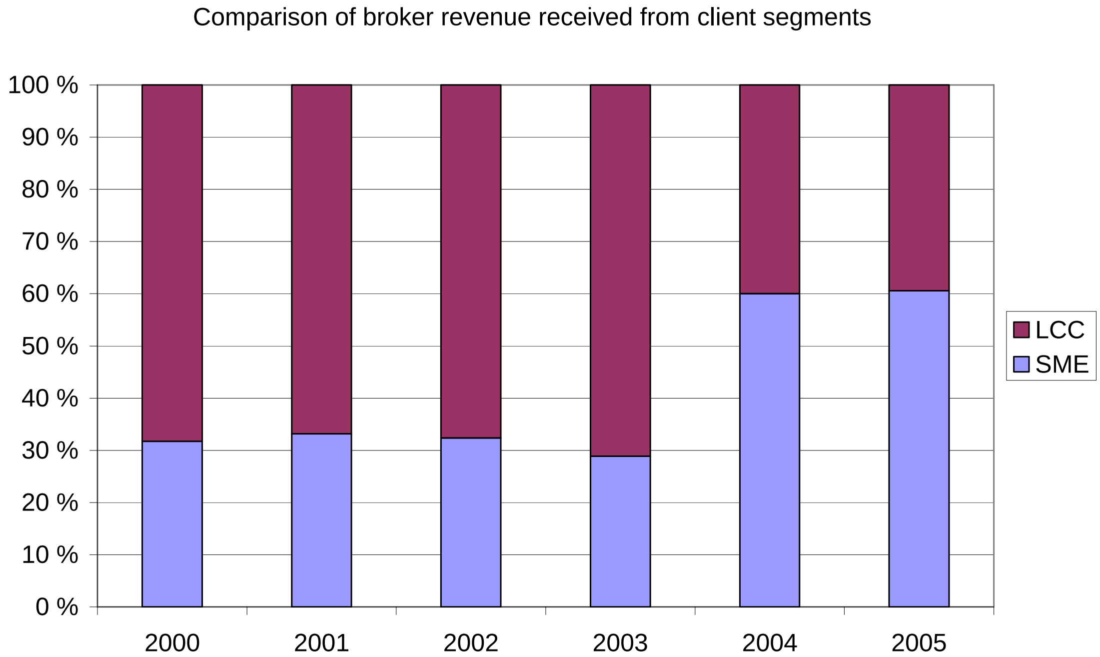

Figure 22: Source: Authority Business Insurance Survey 2005

5.3.3 Competition considerations in relation to net quoting

Cummins and Doherty (2006) consider that the use of client fees is most common among large brokers. This may be because large brokers perform more complex and client-related services. They also suggest that large brokers may be less affected by the transition to net quoting than small brokers.

Coordinated behaviour of this kind may also serve to soften competition. According to Econ (2005-020):

> *"The motive for [the Insurance Association's] self regulation may thus also have been to increase the income of the companies at the expense of brokers, but to avoid that individual companies create turbulence in the market by single handedly terminating their agreements with the brokers."* (p. 26, square brackets added).

The new code of conduct was opposed by brokers in Norway. According to the Commission's Interim Report, a similar practice has been opposed by brokers in Finland, Denmark, and Sweden on the basis that they consider it to be favourable to direct insurance sales teams and damaging to brokers. In particular, there is an argument that it might give rise to a margin squeeze on brokers.

A follow-up survey made by the Authority after the interim report, confirms that there is a divergence of opinion between brokers and insurers as to the competitive effects of net quoting (see Table 13 and Table 11). Brokers seem particularly concerned that competition between brokers and insurers with in-house sales forces would be reduced (see Table 14).

Whilst the Authority takes no position as to the merits of the code of conduct, it appears that it may increase transparency for clients insofar as they are able to see how much brokers receive for their services. Such a rule could clearly affect the economic position of brokers. If the result of the rule is a reduction in the number of brokers, one possible consequence could be a reduction in opportunities for market access for insurers without in-house sales organisation. This again might in turn reduce insurance availability for customers.

However, whether net quoting will result in reduced total insurance costs for clients remains an open question.

Increased efforts by brokers to find alternative products could have the pro-competitive effect of pushing down insurance premiums and assisting clients in finding alternatives to traditional insurance. In a well-functioning market (or supply chain), it is unlikely that insurance companies (upstream firms) would pay commission to brokers (downstream firms) for services they do not value, or which the insurance companies could perform at a lower cost themselves.

The NOU 2007:1 states that the degree of pure client services varies both between brokers and between contracts. Traditionally, the commission was based on a fixed percentage of the premium[63]. However, that percentage would vary from product to product. The fact that the commission varies may suggest that the amount of insurance services performed by brokers differs among insurance lines[64]. However, it could also mean that the market power of brokers varies and that they represent a “gateway” to clients without otherwise performing services for insurance companies.

Swiss Re (2004) and Cummins and Doherty (2006) find that the international and U.S. markets for brokers are highly concentrated. Cummins and Doherty (2006) also find considerably higher profitability (return on equity) for brokers than insurers. The relative profitability levels are quite high for brokers considering the degree of risk that they assume. The relatively high profitability of brokers could be illustrative of excessive profits or as a result of them offering highly valuable services (more differentiated services). Cummins and Doherty (2006) point out that profitability tends to be higher for large, international brokers – and that barriers to entry also increase in markets where brokers are larger. Europe Economics (2003) cautions that evidence suggests muted price competition among brokers, that clients may also experience switching costs for brokers, and that there are concerns about transparency and the impartiality of brokers.

[63] The client neither agreed on any fee nor paid any fee to the broker.

[64] Cummins and Doherty (2006) find large variations in commissions among insurance lines, ranging from 21.5 percent for fidelity–surety to 3.9 percent for medical malpractice in the U.S.A. They argue that in general commissions tend to be higher for insurance lines that are more difficult to underwrite, i.e., more information-intensive and complex.

5.4 Conclusion as to distribution methods

Both in Norway and in Iceland most insurers seem to rely most heavily on direct distribution. Whereas brokers appear to be the second most important channel in Norway, agents fill this role in Iceland. Brokers in Norway typically handle large clients, whereas agents in Iceland handle small clients (as is the case for Norwegian agents as well).

Physical presence of distributors seems to be a potential barrier to entry. In particular, brokers and customers appear to emphasise a need for a local presence.

Norway is considering adoption of a new law prohibiting the payment of commission from insurance companies to brokers. The effects on competition (and welfare) are as yet unclear. However, in Norway, the practice has to a large extent been in use since 1 September 2003. On the basis of the limited data available at present, one can conclude that net quoting increases transparency for insurance clients. It could also lead to a shift in expenditure on commission and an approximately corresponding increase in client fees. It may also appear as if the development of the operating income of brokers has declined relative to insurance premiums. Whether this will lead to any medium to long term structural changes in the broker segment is uncertain at present.

In the interim report, the conclusion drawn was that there might be competition problems related to the alleged refusal of insurance companies to supply liability insurance to brokers in Iceland. However, during the consultation period the FME indicated that: "The FME does not look at it as a competition problem that the majority of the domestic insurance companies do not supply liability insurance to brokers. It is the companies' choice not to supply this insurance. The brokers have not had specific problems in getting this insurance cover." If it is the case that brokers can obtain insurance cover from other sources (e.g. foreign branches or insurers, see section 2.3.2), then it is unlikely that this will give rise to an appreciable effect on competition.

6 Horizontal cooperation between insurers in the EFTA States

In the Commission's Interim Report, the Commission has openly questioned whether Commission Regulation (EC) No. 358/2003 of 27 February 2003 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector (the "Insurance Block Exemption Regulation") which expires in 2010, should be continued[65]. The Authority has examined the various types of horizontal cooperation that take place in the EFTA States.

6.1 Calculation of the average cost of risk, studies and standards

The data from the responses of insurance companies to the Authority's survey suggest that the use of data from associations to calculate risk is virtually non-existent, save for a few separate cases reported by Icelandic insurers limited to specific insurance classes typically with a relatively low share of gross written premiums. The existence of a few

[65] OJ 2003 L 53, p. 8. Annex XIV Chapter J point 15b. Replaced by EEA Joint Committee Decision No 82/2003 OJ 2003 L 257, p.37 and EEA Supplement no 51, p.24.

cases in which insurers are using association data may indicate a need for external information due to insufficient internal risk data in these particular segments.

Nearly all respondents explained that they exclusively use own databases for calculating average cost of risk and to determine premium levels. These databases are not shared with competitors.

Survey responses from the Association of Norwegian Brokers indicate that it performs no joint determination and distribution of calculations concerning the average costs of covering a specified risk. There are no studies or standards performed within the terms of the Insurance Block Exemption Regulation.

Whereas use of the databases of reinsurers was common among Icelandic insurers, this was hardly the case for Norwegian insurers. Use of databases of other parties, such as insurance associations, was also virtually non-existent.

Survey responses from the Association of Norwegian Brokers indicate that it performs no joint determination and distribution of calculations concerning the average costs of covering a specified risk[66]. There are no studies[67] or standards performed within the terms of the Insurance Block Exemption Regulation[68].

Survey responses from the Association of Icelandic Insurance Companies ("SÍT"), which has since merged with Icelandic Financial Services Association (IFSA), indicate that it performs no joint determination and distribution of calculations relating to the average costs of covering a specified risk. Joint studies are performed, but these are no longer relevant, nor are there any ongoing studies. SÍT has been involved in the joint determination and distribution of 12 standard policy conditions for direct business insurance classes since 1st July 1994. None of these however, were in effect in 2005.

6.2 Premium indexation clauses

There is wide variation in the use of premium indexation clauses between the different insurance classes. No respondents in either Norway or Iceland have indexation of the following classes: aviation, credit and suretyship, directors' & officers' liability, marine, or transportation. Premium indexation clauses stipulate a premium adjustment, related to the application of a certain index, when contracts are concluded for more than one year or in case of extension or renewal of an existing contract. Premium indexation may relate to a price index, to the adjustment of the insured value, to the development of claims or to any other reference parameter. The highest share of respondents with indexation clauses is 80% for property and business interruption in Norway.

[66] As provided for in Article 1(a) of Regulation (EC) No 358/2003.

[67] As provided for in Article 1(b) of Regulation (EC) No 358/2003.

[68] OJ 2003 L 53, p. 8. Annex XIV Chapter J point 15b. Replaced by EEA Joint Committee Decision No 82/2003 OJ 2003 L 257, p.37 and EEA Supplement no 51, p.24.

Table 17: Use of premium indexation clauses. Proportion of yes answers to sum of yes- and no-answers, split per line. (Source: Authority Business Insurance Survey 2005)

Classes	Iceland	Norway	Total
Aviation	0 %	0 %	0 %
Credit and suretyship	0 %	0 %	0 %
Directors' & Officers' Liability	0 %	25 %	14 %
Environmental Liabilities	50 %	0 %	25 %
General Liabilities	33 %	40 %	38 %
Marine	0 %	0 %	0 %
Motor	67 %	20 %	38 %
Personal Accident/Medical Expenses	67 %	75 %	71 %
Professional Indemnity/E&O	67 %	0 %	33 %
Property/ Business interruption	67 %	80 %	75 %
Residual packages	0 %	0 %	0 %
Transportation	0 %	20 %	13 %
Total	67 %	80 %	75 %

For both Iceland and Norway, the share of respondents using some form of premium indexation clause is very high compared to most EU countries. However, it seems to be on par with Denmark with 74 %[69].

6.3 Use of co-insurance pools

The Norwegian Financial Services Association (the "FNH") reported involvement in six co-insurance pools since 1994. All were established prior to 1994, and three have been terminated. The three remaining pools are:

Pool	Role of FNH
Norsk Naturskadepool (Natural Disasters/Property cover)	Managing the pool Claims clearing and/or settlement
Panthavergarantipoolen (Credit and suretyship)	Managing the pool Claims clearing and/or settlement
Yrkesskadeforsikringspoolen for avslåtte risiki (Other: Workmen's Compensation).	Managing the pool Premium clearing and/or settlement Claims clearing and/or settlement

Most of the Norwegian insurers reported that they belonged to Norsk Naturskadepool. 40% reported that they belonged to Yrkesskadeforsikringspoolen.

The SÍT reported that is has been involved in four insurance pools, all established prior to 1994 and all of which were terminated by the end of the 1990's. None of the Icelandic insurers reported belonging to any co-insurance pool.

[69] The Commission's Interim Report, Table X.1

6.4 Use of security devices

Insurers may agree on security devices such as technical specifications, rules or codes of practice concerning different sorts of safety equipment (e.g. anti-fire or anti-theft devices).

The FNH reported that there are miscellaneous rules on security devices related to fire and theft protection for property insurance, partly also private household insurance, motor, boat and transportation insurance (see section 9.3 below).

Some 40% of the Norwegian insurers responding to the survey reported that they had commonly agreed upon security devices related to Property/Business Interruption. Approximately 20% reported that they had implemented security devices related to General Liabilities.

The SÍT reported no security devices. None of the Icelandic insurers reported any use of security devices.

6.5 Claims settlement agreements

The FNH reports of claims settlement agreements within Property, Motor, and Personal Accident/Medical Expenses.

According to the responses from Norwegian insurers, claims settlement agreements are used in Motor, General Liabilities and Personal Accident/Medical Expenses, but only by a minority of the insurers.

The SÍT reported no claims settlement agreements. None of the Icelandic insurers reported use of any claims settlement agreements.

6.6 Access to data and databases

As noted in section 6.1 above, hardly any of the insurers in Norway or Iceland use data from associations to calculate risk premium, and only in half of the instances of such use are insurance companies charged for access.

The FNH reports that it is involved in the following databases/registers:

- Register of insured and insurance applicants (Register over forsikrede og forsikringssøkere, ROFF)
- Central injury/claims register (Sentralt Skaderegister, FOSS)
- Register of life insurance and pension (ROLP)
- Committee website (Utvalgsweb)
- Members' information network

The injury/claims register ("Sentralt skaderegister, FOSS") records, for example, social security number, name of insurance company and type of claim for ten years. Non-life insurance companies which are members, can access the information as a tool for preventing insurance fraud. The cost of such registers is typically covered through the membership fee, which may explain the "free" access[70].

[70] Also, it coordinates cooperation on mortality and disability statistics for life insurance.

The FNH also gathers and publishes miscellaneous statistics on insurance (as well as banking), e.g., market shares per insurance line and insurance company[71]. The completeness of the data varies depending on insurance line. According to the FNH, the reporting companies will represent practically the entire motor insurance market (Consumer and Business, see Table 18). However, for industry insurance, there will be a number of other active companies (captives and foreign) which do not report. Whether the publishing of statistics may to some degree facilitate softer price (premium) competition in some markets is uncertain. The fact that it is published quarterly and with a seemingly short delay increases the usefulness of statistics in this regard. However, other factors, for example, such as the fact that the product market may be considerably narrower than the insurance class-level of the statistics, and that the scope for non-price competition may be significant, reduces the potential coordinative usefulness of the statistics.

Annual reports by insurance companies may also be rather detailed with respect to product markets (insurance classes). The interim reports, on the other hand, seem aggregated and prima facie, might not have the potential to lead to a dampening competition[72].

Table 18: Market shares and HHI for total motor insurance in Norway (source: FNH *(Italics added)*)[73]

	Bestandspremie *(premium)* i 1000 kr			**Markedsandel i prosent (*market share)***		
Selskap *(company)*	**31.03.2005**	**31.03.2006**	**31.03.2007**	**31.03.2005**	**31.03.2006**	**31.03.2007**
If Skadeforsikring	4 547 793	4 607 618	4 377 065	33,4	33,3	31,0
Storebrand Skade	-	-	26 039	-	-	0,2
Gjensidige	4 190 487	4 311 849	4 400 911	30,8	31,2	31,2
Vesta	2 554 803	2 462 672	2 496 856	18,8	17,8	17,7
SpareBank 1 Skadeforsikring	1 349 378	1 379 551	1 433 074	9,9	10,0	10,2
Jernbanepersonalets Forsikring	222 334	237 853	247 303	1,6	1,7	1,8
Trygg-Hansa	98 220	102 025	129 015	0,7	0,7	0,9
Sjøtrygdgruppen	-	-	-	-	-	-
KLP Skadeforsikring	57 167	52 445	54 007	0,4	0,4	0,4
Terra Skadeforsikring	522 970	578 489	618 381	3,8	4,2	4,4
Telenor Forsikring	-	-	-	-	-	-
NEMI	-	-	-	-	-	-
AIG Europe	1 530	2 850	206 144	0,0	0,0	1,5
Tennant Forsikring	74 675	85 023	98 188	0,5	0,6	0,7
Bluewater Insurance	-	-	13 850	-	-	0,1
I ALT *(total)*	**13 619 357**	**13 820 375**	**14 100 833**	**99,9**	**99,9**	**100,1**
			HHI	***2 534***	***2 521***	***2 378***

[71] http://www.fnh.no/fullstory.aspx?m=1694

[72] See e.g. Gjensidige Annual Report 2006 (e.g. Note 4) and Gjensidige Interim Report Third Quarter 2006.

[73] FNH, SKADESTATISTIKK - 06/07, Premiestatistikk skadeforsikring, 1. kvartal 2007, 30 April 2007, tabell 3.1 (quarterly premium statistics non-life, first quarter 2007, table 3.1).

The SÍT reports that it is not involved in collection or exchange of insurance-relevant data, and no such database is run with the association[74].

The FME publishes relatively detailed statistics. The statistics contain among other things, costs and profitability ratios by company and insurance class. However, the statistics are published rather infrequently (annually), and with a seemingly considerable lag (one year plus). Hence, although though such information may in principle facilitate tacit collusion, the risk does not seem to be significant.

The results of the Authority's survey may be biased due to an over representation of large insurance companies in the survey sample. It may be that small insurers use external databases to a much larger extent. However, the relatively large presence of captives[75], particularly in Norway, suggests that the necessary number of risk observations needed to determine premiums (or expected losses) may either not be that high, or the information may be readily available. While there may be other reasons for forming captives, such as large information advantages or reduction of tax liability, many captives still appear to operate in ordinary, national insurance markets for which this does not seem to apply.

In the follow-up survey by the Authority, insurers responded that risk analysis including difficulties in acquiring sufficient information about risk, constituted a slight to intermediate barrier to entry.

6.7 Views of the Norwegian Financial Services Association (FNH)

The FNH opposes not extending the Insurance Block Exemption Regulation. According to the FNH, the industry wants to keep it, and considers that there are good reasons for doing so. First, continuation of the BER will send a signal to stakeholders that these forms of cooperation are within the boundaries of competition law. Without the Insurance Block Exemption Regulation, insurers may feel that they are bound by a stricter regime of competition law. A failure to extend the Insurance Block Exemption Regulation will remove the clarity that has hitherto been experienced by the industry. The FNH considers the Authority should not put too much weight on the evidence from its sector inquiry suggesting that such cooperation in relation to non-life business insurance is unusual. The FNH suggests that this kind of cooperation is more important in many lines of consumer insurance and life insurance.

6.8 Conclusions as to horizontal cooperation and the Insurance Block Exemption Regulation

Lack of industry information concerning risk profile and risk analysis may be seen as a barrier to entry to the markets for suppliers of business insurance. According to the Authority's survey results, the larger insurance companies in Norway and Iceland do not

[74] It does however, manage a data bank operated to ensure that motor vehicles have valid compulsory motor insurance and houses have valid compulsory fire insurance.

[75] i.e., a firm choosing to self-insure. Whether such voluntary self-insurance is a good substitute, appears to be related to the size of the firm. There are numerous examples of so called captives. SMEs may organize insurance pools or establish a mutual insurance company solely to serve some of their insurance needs. This is a form of collective self-insurance.

generally rely upon the provisions of the Insurance Block Exemption Regulation as regards information exchange. According to the survey results, they develop and rely upon exclusively proprietary databases which are not shared with competitors. Insurers do not perform joint determination and distribution of calculations concerning the average costs of covering a specified risk. Furthermore, they do not produce studies or standards within the terms of the Insurance Block Exemption Regulation. Whereas use of the databases of reinsurers was common among Icelandic insurers, this is rarely done by Norwegian insurers. Although the Authority found some standard policy conditions in Iceland, these conditions were no longer relied upon by insurers.

The relatively large presence of captives in Norway and the information provided by LCCs indicates that it may not be so difficult to estimate risk and self insure for a range of insurance classes relevant to LCCs. The objections raised by the FNH to the discontinuation of the Insurance Block Exemption Regulation do not appear convincing at present. This is in particular the case, since the members of the association have responded separately to the Authority's inquiry that they do not produce studies, standards or share calculations of risk within the terms of the Regulation. The argument of the FNH that the block exemption regulation is more important for consumer and life insurance cannot be verified by the data obtained so far by the sector inquiry.

However, there may be pro-competitive reasons for continuing the block exemption. For example, the use of standard conditions in certain segments may result in efficiencies. However, at present, the industry's motivations do not in this respect, appear to be persuasive. Whilst we agree that the scope of cooperation between insurers permitted by the competition rules should be clear, following modernisation of the EEA competition rules, it is open to question whether the industry cannot obtain sufficient clarity from case law, decisional practice and legal advice without burdensome administrative costs.

6.9 Conclusions as to horizontal cooperation

Save for the code of conduct on net quoting in Norway, the level of cooperation among insurers both in Norway and Iceland is very low.

As regards the considerable variation in cooperation between the EU Member States, the Commission notes that this may raise doubts as to the justification for the renewal of the Insurance Block Exemption Regulation. On the basis of the Authority's findings, the same may be said for Norway and Iceland.

7 Conclusions

7.1 Findings of the sector inquiry

Both the insurance and broker markets are found to be quite concentrated. High levels of market concentration may give rise to competition concerns. Still, there was no clear reason for the high concentration levels found among the entry barriers investigated. The relatively large number of captives in Norway, many of whom constitute less than one percent of their relevant market, may be an indication of low scale economies or high transaction costs. It could also be that captives are niche companies which do not belong to the relevant markets included in the inquiry.

As to the **market structure and financial aspects** of the industry, the inquiry finds high concentration levels in most insurance lines. For brokers, the concentration appears to be lower. Data suggest that the industry has been moving from a trough of an insurance cycle to a peak over the period 2000-2005 which is the duration of the survey data. The entire length of the insurance cycle may have been 10 years (Swiss Re, 2006). There seems to be considerable variation in profitability between insurance classes. However, the cyclical nature of the industry along with the time lag from premium payments to final settlement of related claims makes it difficult to assess profitability based on the current survey data.

Regarding **joint use of standard policy conditions**, the inquiry has not found any significant issues of concern. The provision for such cooperation under the Block Exemption Regulation does not seem to be relied upon to any great extent by insurers. The Commission has questioned the scope of the exemption on similar grounds in its final report.

As far as **horizontal cooperation** and **distribution arrangements** are concerned, the **new code of conduct on remuneration of brokers** introduced by the Norwegian Financial Services Association in September 2003 may have uncertain consequences. The new norm seems to have caused a shift in the sources of revenues for brokers from LCCs to SMEs. Two of the surveyed insurers and a majority of brokers appeared to consider the new code of conduct of net quoting in Norway to be a prevention, restriction or distortion of competition. A majority of brokers surveyed believe it will reduce competition. Some small to medium sized insurers stated it would benefit large insurers with internal sales organisations at the expense of smaller insurers with little or no internal sales organisation. The limited data available on the economic effects of the introduction of net quoting in Norway indicate a shift in revenues from commissions to client fees. Early indications are that the reduction in commissions is more or less offset by the increase in fees maintaining the total revenues of brokers. However, it may appear that the development in the operating income of brokers' used to follow that of insurance premiums, but has declined following the introduction of the code of conduct. In December 2007, a proposal to enact a law on net quoting was introduced.

The limited nature of horizontal cooperation between insurers generally, may prompt questions as to the requirement for an extension to the terms of the Insurance Block Exemption Regulation after expiry in 2010.

The interim report suggested that there were indications of collective refusal by insurance companies to supply liability insurance to brokers in Iceland. However, information provided by the FME during the consultation period suggests that the market may be international, or that in the very least, there are sufficient foreign insurers providing this coverage along with one domestic provider (Íslandstrygging hf., now known as Vörður trygging hf).

Therefore, there do not appear to be strong indications of serious competition problems disclosed in either of the EFTA States of Norway or Iceland.

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9 Appendices

9.1 Methodology and data

In terms of methodology, the sector inquiry relies to a large extent on desk research benefiting from other studies of the insurance sector, such as the Commission's Interim and Final Reports and the survey performed by the Office of Fair Trading ("OFT") of the liability insurance market in 2003. This approach has some limitations since the studies referred to may have had a different focus or relate to other geographic markets which might affect the relevance of the conclusions of these studies.

To remedy the shortcomings of desk research, the inquiry also relies on primary data from a questionnaire survey of business insurers, intermediaries, and associations in Norway and Iceland. The questionnaires are modelled on the survey described in the Commission's Final Report covering mainly the period 2000-2005. The size of the Commission's samples ranged from 25 firms in the largest EU Member States (Germany and UK) to only five firms in the smallest.

For insurers in Norway, the Authority surveyed the five *largest* non-life business insurers on the basis of market share data. These insurers covered roughly 70% of the market on the basis of gross premiums earned. Branches of companies with foreign registries were not included. The reason for this was that branches were not likely to have sufficient relevant data since their accounts are consolidated with the main company. As far as the Norwegian sample is concerned, this means that the insurer "If Skadeforsikring" was omitted on the basis that it is established in Norway as a branch of a Swedish company, not as a subsidiary incorporated under Norwegian law. In retrospect, this may have been unfortunate because If Skadeforsikring covers about 22% of the market based on the hypothesis that the market may be national. Furthermore, one of the five largest Norwegian business insurers, Industriforsikring AS, was omitted on the basis that it was "captive". A captive insurer is a limited purpose, wholly-owned insurance subsidiary of an organization not in the insurance business, which has as its primary function the insuring of some of the exposures and risks of its parent company or its parent's affiliates. This may also be a weakness with the selection since captive companies might contribute interesting information regarding self-insurance as a substitute for purchasing traditional business insurance.

The same principles in relation to sample selection were followed for brokers: the five largest were selected on the basis of consultations with the Association of Norwegian Brokers and the Norwegian FSA.

For Iceland, the Authority selected its samples based on the same principles and relied on data provided by the FME.

Whilst the samples represent most of the turnover in the segments examined, the responses are clearly biased towards large firms. However, the perspective that this information provides on competitive issues may differ from that of smaller firms. If markets are national with entry and organic growth as a competitive threat to incumbent firms, then important information may be missing from the survey. Furthermore, the combination of the two EFTA States surveyed by using small samples means the survey is particularly vulnerable to inadequate responses.

In common with the Commission's Interim and Final Reports, where possible, responses have been adjusted for errors which seem very apparent. However, the inferences that may be drawn from the survey may be somewhat limited. Thus, the report has been supplemented with secondary data, mainly from the financial supervisory authorities of Norway and Iceland, but also to some extent by data from insurance associations. However, although these data are reliable and robust, they may not be directly comparable to those of the Authority's survey. For example, the same insurance classes may be defined differently from the Authority's survey, or the data may be an aggregate of both business insurance and private insurance.

During the consultation period, the Authority carried out an additional targeted survey of insurers, intermediaries (brokers) and customers.

Responses were received from six Norwegian and three Icelandic insurers and from six Norwegian and one Icelandic broker. Responses were also received from 27 Norwegian and 14 Icelandic business insurance customers, as well as six from other countries.

Due to the small scale of the additional survey, the statistical significance is limited. Furthermore, large firms are still overrepresented, though to a lesser degree than in the original survey.

The main focus of the surveys was an inquiry into the level of experienced competition, entry barriers and impact of net quoting. The feedback from the surveys is included in the related sections of the report.

9.2 Definitions

Please note that the definitions provided below are exclusively for the purpose of the report and do not necessarily correspond to the definitions contained in EEA insurance legislation.

Acronyms for EU Member States

AT – Austria
BE – Belgium
CY – Cyprus
CZ – Czech Republic
DE – Germany
DK – Denmark
EE – Estonia
EL – Greece
ES – Spain
FI – Finland
FR – France
HU – Hungary
IE – Ireland
IT - Italy
LT - Lithuania
LU - Luxemburg
LV - Latvia
MT - Malta
NL – The Netherlands
PL - Poland
PT - Portugal
SE - Sweden
SK - Slovakia
SL - Slovenia
UK – United Kingdom

Affinity groups/buying group/retailers
Groups with common needs which arrange insurance for their members (e.g., Federation of Small Businesses, industry groups and associations)

Agency
The relationship with an insurer with whom an intermediary is able/authorised to place commercial insurance, taking into account the intermediary company's/group's rules on cooperation with insurers (for instance, a list of "approved insurers"), as well as the insurers' readiness to accept the business.

Active agency
The relationship with an insurer with whom an intermediary did actually place some business during the reference period (i.e. year 2005), excluding any revenue/activity in respect of prior years/adjustment of prior year placements.

Business insurance
The provision of insurance products and services to any type of business, irrespective of its size, form of organisation or legal structure.151

Classes of insurance

Property/Business Interruption
Physical damage to property or loss of revenue arising from damage to property of any kind and by any risk not specifically mentioned below. This includes technical and machinery insurance related to property as well as machinery interruption.

MAT: class of insurance that includes the following:

Marine
Blue water and brown water hull and liability risks, including Protection & Indemnity risks and other associated risks.

Aviation & Space
Aviation and space hull and liabilities risks, including Aviation and Space Product Liabilities and associated risks.

Transportation
Cargo and goods-in-transit coverage.

Motor
Legal liability for (A) death, bodily injury or damage to property arising from the ownership, operation or use of a motor vehicle and (B) physical damage to owned or hired vehicles.

Liability: class of insurance that includes the following:

General Liabilities
Includes public liability, product liability and employers' liability, including residual employers' liability where there is state provision of primary employee cover. Legal liability for death, bodily injury or damage to property arising from the business or the manufacture or sale of products.

Professional Indemnity/E&O (errors & omissions)
Legal liability for the provision of negligent advice or services (not related to the sale of a product) that results in financial loss or death, bodily injury or damage to property.

Environmental Liabilities
Legal liability for bodily injury, death or damage to property as a result of gradual pollution or of other sudden pollutions excluded from general liability insurance. Includes clean-up costs and remediation costs and bonds associated with environmental risks.

Directors' & Officers' Liability
Indemnifying companies and (where allowed by law) individual directors & officers from personal liability and financial loss arising out of wrongful acts committed or allegedly committed in their capacity as corporate officers and/or directors.

Personal Accident/Medical Expenses
Injury to individuals or employees, or private medical expenses, where insurable, where benefit is paid to the individual or used to reimburse the company for benefits provided, including Key Man insurance protecting the business from the impact of injury of specific key employees.

Credit and suretyship
Insurance against non-payment by debtor/s where goods or services have been supplied. Includes export credit coverage, surety and bonds.

Cross-border insurance mediation activity
Cross-border insurance mediation is to be understood as business placed on behalf of a client established in a Member State different from that in which the intermediary is domiciled.

Group

The group to which a company belongs includes:
(a) the company itself;
(b) the companies in which the company referred to in (a), directly or indirectly:
(i) owns more than half the capital or business assets, or
(ii) has the power to exercise more than half the voting rights, or
(iii) has the power to appoint more than half the members of the supervisory board, the administrative board or bodies legally representing the undertakings, or
(iv) has the right to manage the company's affairs;

(c) the companies which have in the company referred to in (a) the rights or powers listed in (b);
(d) the companies in which a company as referred to in (c) has the rights or powers listed in (b);
(e) the companies in which two or more companies as referred to in (a) to (d) jointly have the rights or powers listed in (b).

Insurance distribution channels

1. Direct – insurance arranged between the insurer and the insured with no intermediary involvement (including through insurer's company staff and call centres, but except 2).
2. Internet – insurance arranged by the insured where contact and underwriting is processed directly through the insurer's website.
3. Exclusive Agent – an intermediary who is acting as an agent of the insurer and who is under exclusive agreements to refer business to one insurer or otherwise constrained by agreement to refer business to one insurer (except 5 below).
4. Other Agent – an intermediary who is acting as an agent for the insurer and who has multiple insurer agency agreements (except 5 below).
5. Bank – a bank or other lending institution acting as an insurance agent or insurance broker.
6. Insurance broker – an intermediary acting as agent for the insured, who is not tied or constrained by agreement to refer business to an insurer (except 5 above).

Insurance Mediation Directive (IMD)

Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on Insurance Mediation, OJ L 9, 15.1.2003

Large Corporate Clients (LCC)

Businesses exceeding the thresholds provided in the definition of small and medium-sized enterprises (cf. definition below) are considered large corporate clients (LCC).

Net quote

Premium quoted net of all commission.

Renewal notice

Notice sent to the policyholder and/or the intermediary reminding them that an insurance policy is due for renewal and/or stating the renewal premium due.

Services provided by intermediaries

a) Client Services:

Insurance placement
Arranging insurance on behalf of a client, including advice before and after the placement related to that insurance.
Claims management services to clients

Advice or administrative services, separately charged, which relate to the management of claims to the insurance placement clients.

Loss Assessment

Representing claimants, for whom the broker did not place the insurance being claimed upon, in formulating claims and securing payment on their behalf.

Legal services

Giving legal advice, whether related to insurance matters or other issues, in exchange for a separate fee.

Captive management

The establishment and management of insurance companies on behalf of insurance placement clients, including such services to the clients of other insurance intermediaries.

Risk management

Advice to clients on the management and/or financing of

(1) risks other than insurable risk or

(2) risks that may be managed or financed by techniques other than insurance, including the use of self-insurance and of captive insurance companies.

Risk control

Advice to clients on risk identification, assessment and control including workplace health & safety, hazard management, environmental management and risk related training services.

Instalment premiums/premium credit

Provision of instalment premiums/premium credit, including commissions paid by third party providers and specific revenues paid by insurers for the sale of their premium credit services.

Financial planning

The provision of financial advice, including investment, pensions and mortgage/loan advice, for third parties, whether individuals or legal entities.

Asset management

The provision of transactional services related to investments and mortgages/loans for third parties, whether individuals or legal entities.

b) Services to Insurers:

Reinsurance broking

Arranging reinsurance on behalf of an insurer, including advice before and after the placement related to that reinsurance.

Insurance underwriting

Underwriting risks on behalf of an insurer or a panel of insurers, which includes all or any of the terms and premiums, provision of cover and agreement of claims, and also including profit commissions paid by insurers on client portfolios or segments thereof.

Loss Adjusting

The provision of independent advice to insurers and to their clients in the establishment of the cause of a loss, the validity of any claim and the quantum of that claim.

Claims management

Providing advice or administrative services relating to the management of claims to the intermediary’s reinsurance clients, where the former are separately charged for that service.

Claims administration
Providing insurance companies with services related to the handling of claims made against them by their direct clients, whether mutual clients or not.
Policy administration
Providing insurance companies with services related to the issuing of policies, endorsements and other documentation, including cover notes and certificates, to their direct clients, whether mutual clients or not.
Accounting services
Providing insurance companies with services related to the collection of premiums and the settlement of claims to their direct clients, whether mutual clients or not.
Risk modelling
Assessing and reporting to insurers on probable risk outcomes for specific risks or risk portfolios.
Risk surveying
Assessing and reporting to insurers on risks, including client and third party risks, where a fee is paid by insurers for the service.

Small and Medium Sized enterprises ("SME")

Any company whose staff number is below 250 people and whose turnover is under 50 M EUR (million EUR). Micro-companies are thus also included in the SME category. Businesses exceeding these thresholds are considered large corporate clients (LCC).

Sources of revenue (Intermediaries)

Commissions
Revenues paid by insurers or reinsurers where the amount payable is fixed as a percentage of the premium for the policy placed, also including any subsequent additional revenues from the adjustment of premiums subsequent to original placement.
Client Fees
Revenues paid by clients either in addition to, or instead of, commissions paid by the insurer/reinsurer.
Contingent Commissions
Any kind of payment (excluding client fees and commissions as defined above) paid by insurers to intermediaries that are not exclusive agents of the insurer, where the amount payable is based on the achievement of agreed targets relating to the business placed by the intermediary with that insurer.
Profit Commissions
Commissions or fees paid by insurers for the achievement of profitability targets or otherwise related to the profitability of the insurer's book of business with the intermediary. To the extent that they are not paid to exclusive agents, profit commissions are a sub-category of contingent commissions, exclusively related to profitability.

9.3 Security devices, Norway

Specifications concerning fire:

1. Guidelines for sprinkler design, installation and maintenance for private and professional sector.
2. Guidelines for design, installation and maintenance for automatic fire alarm design for private and professional incl. agricultural sector.
3. Guidelines for design, installation and maintenance for pluggable surge protection device (surge diverter/high voltage protection).

Specifications concerning theft:

1. Requirements for intruder alarm systems
2. Requirements for intruder devices for business and industry.
3. Requirements for electronic access control systems.
4. Requirements for testing of alarm transmission equipment according to EN-requirements.
5. Safety regulations for security transportation.
6. Safety regulations for robbery in business and industry.
7. Antitheft requirements for vehicles at the car dealers.
8. Requirements for tracking systems for vehicles and boats.
9. Standards for companies doing marking and registration of vehicles and boats.
10. Recommendations/requirements for locks for bicycles, mopeds and motorcycles. (Adopted partly from Sweden, partly from England.)