

Public consultation on the Supervisory statement on differential pricing practices in non-life insurance lines of business

Resolution of comments

1. Comments¹ to the text of the Consultation Paper

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		2.1. A trustful and well-functioning insurance market improves consumers' financial health and it is beneficial for society as a whole.	
1	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Über Finanztip Finanztip ist Deutschlands Geld-Ratgeber. Finanztip zeigt, wie man seine Finanzen einfach selbst machen kann. Dafür recherchiert eine unabhängige Redaktion aus Expertinnen und Experten rund um Chefredakteur Hermann-Josef Tenhagen für ihr Publikum relevante Finanzthemen, u.a. Geldanlage, Versicherung und Kredit.	Noted. Thank you for your comment.

¹ The responses for which the respondent requested to be treated as confidential or anonymous but did not expressly asked to be published have also been taken into account but have been treated as confidential.

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		<p>Die Redaktion arbeitet nach einem strengen Redaktionskodex. Das Angebot von Finanztip ist kostenlos und umfasst einen wöchentlichen Newsletter mit fast einer Million Abonnenten sowie eine Website mit mehr als 1.000 fundierten Ratgebern mit konkreten Empfehlungen. Die Finanztip-Ratgeber wurden im vergangenen Jahr mehr als 60 Millionen Mal aufgerufen. Unsere vielfältigen Kontakte mit den Leserinnen und Lesern sowie Zuschauern sorgen für breite Empirie, mit welchen Problemen sich Verbraucher heute auf dem deutschen Versicherungsmarkt konfrontiert sehen.</p> <p>Finanztip ist Teil der gemeinnützigen Finanztip Stiftung, deren Stiftungszweck die Finanzbildung von Verbrauchern ist.</p> <p>(https://www.finanztip.de/ueber-uns/)</p>	
2	MACIF	<p>MACIF agrees and complies with the rules in force. The current supervision is effective enough in terms of ability to switch insurers, freedom of choice, transparency, fair pricing and tariff freedom, mutualisation. Thus, the current functioning of insurance protects consumers' financial health and is beneficial for society.</p> <p>In France, current regulations (2014-344 "Hamon" or 2005-67 "Chatel" laws), protect the consumer who can quickly change insurers and benefit from advice.</p> <p>Existing regulations already prevent sales practices that could hinder consumer's free choice: sale of a product conditional on the purchase of another product; tied sales without the possibility of buying only one of the products; cross-selling; packaged sales. Commercial negotiation of the price of a product, which EIOPA calls "bargaining", is not prohibited: this is the principle of trade.</p>	<p>Thank you for your comment. EIOPA notes that there already existing rules at national and EU level and agrees with the fact that existing rules already cover the issues highlighted. Indeed, the purpose of the Supervisory Statement is to clarify which are the supervisory expectations with regards to existing requirements at EU level, as well as to promote supervisory convergence and ensure fair treatment of consumers.</p> <p>With regards to market implications of the supervisory statement, EIOPA has aimed to strike a balance with allowing between ensuring consumer protection and consumer to shop around for better deals and giving certain</p>

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		<p>In Europe, the IDD optimizes the transparency of information for the customer. For several years, the law has been strengthened to protect the retail consumer. He (she) can choose the products he (she) buys with full knowledge of the facts. There is already a cross-sectoral regulation (Directive 2005/29/EC) which prohibits misleading and aggressive practices that aim at substantially altering the economic behavior of the consumer. Exhaustive criteria are used to qualify a practice as unfair. The deception must be qualified with regard to a normally informed, attentive and informed consumer.</p> <p>We question the legal basis used by Eiopa to qualify a practice as "unfair". This notion is subjective and a source of legal uncertainty and, as used by , is not sanctioned by European consumer law: the European directive on unfair terms in consumer contracts 93/13/EEC prohibits unfair terms but specifies that "The assessment of the unfairness of terms shall not relate to the definition of the main subject matter of the contract or to the adequacy of the price and remuneration, on the one hand, and the services or goods to be provided in return, on the other, provided that these terms are drafted in a clear and comprehensible manner". A consumer informed of the price is therefore not entitled to challenge it on the grounds that it is abusive. Indeed, product manufacturers are free to offer commercial, marketing or underwriting discounts to consumers with a view to acquire or retain them in the course of a commercial transaction. They can also freely determine their market position vis-à-vis their competitors and adjust their tariffs accordingly. Tariffs are not regulated in insurance. The less tariff freedom there would be, the greater the risk of aligning prices and the products and services offered, with a downward leveling of quality. From the point of view of macroeconomic principles, limiting</p>	<p>flexibility to insurance manufacturers to attract and retain consumers.</p> <p>Concerning the comment about the legal basis of the Supervisory Statement, please refer to the feedback statement of the public consultation.</p>

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		<p>tariff freedom could risk reducing the diversity of responses to consumer needs. Macif is in favor of having the most open competition in terms of tariffs while respecting the level playing field with other sectors. We question the overly strict impacts of pricing. In Europe, prices of goods, most products and services are freely determined by competition and oppose any illegitimate interference by the regulator or legislator in this area. Neither the IDD nor the POG requirements for insurance undertakings & distributors specifically regulate pricing. These texts provide that customers must not be harmed, but there is no indication that the price can be a source of harm. The existence of prejudice should be assessed in relation to what the IDD regulates: advice, response to customer needs.</p> <p>A key factor also determining MACIF practices is its belonging to the mutual insurance sector. A mutual is a non-profit company, constituted according to the principles of solidarity and mutual aid. One of the legal requirements is the equal treatment of policyholders/members presenting the same risk. This regulation forbids differential pricing practices whereby consumers presenting similar risk and cost-of-service characteristics would be charged different premiums for the same insurance products. It adequately prevents the "price walking" practice targeted by Eiopa and higher premiums at renewal stage; and premium differentiation based on the analysis of a single consumer's particular profile and likely behavior unrelated to risk or cost of services, such as the premium increase it would tolerate before looking around for better offers and possibly switching to another insurance provider. Macif fully complies with this regulation. As we manage a large portfolio where not all risk coverages are financially profitable, as for instance for young car drivers or in home insurance. It is the role of the insurer to</p>	

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		protect the community through mutualisation. New constraints could increase hyper-segmentation and lead to demutualization, thereby making it more difficult for people who are old, who have health issues, or who have low purchasing power, to obtain insurance.	
		2.2. On top of risk-based actuarial tariffs (expected cost of claims) and premium adjustments to take into account costs of service (e.g. commissions paid to distribution channels and other overheads like taxes, salaries, etc.), some insurance product manufacturers further adjust the premium using a number of different techniques which are unrelated to the risk profile of the consumer and the cost of service. For example, consumers may be charged a different premium based on personal behavioral characteristics such as their price elasticity, propensity to shop around at the renewal stage or the customer's lifetime value estimation "score" during the tenure with the manufacturer. It is also a common practice to adjust the premium to the market price offered by competitors.	
3	Deutsche Aktuarvereinigung e.V.	In a free and deregulated market, insurers must be able to choose the offered premiums freely. Restrictions to this premise can lead to detrimental effects to costumers as it limits competition.	Thank you for your comment. However, as specified in the Supervisory Statemet, EIOPA reiterates that this supervisory statement does not affect and does not cover insurers' ability to set premium freely. Rather, it addresses the product design – including the pricing process – by emphasising that if certain pricing features – rather than the pricing itself – lead to consumer detriment these should not be put in place.
4	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Nach unserer Wahrnehmung trifft dies auf den dt. Versicherungsmarkt ebenfalls zu, wenngleich es hierzu bisher keinen formalen empirischen Beleg gibt. Insbesondere im Bereich der Kfz-Versicherungen herrscht seit langem ein intensiver Wettbewerb, der durch die zusätzlichen Anbieter (InsurTechs) noch weiter verschärft wurde. Da die Leistungen der Kfz-Versicherung weitgehend deckungsgleich sind, wird der Wettbewerb überwiegend über den Preis geführt. Aufgrund des Beitragsvolumens ist die Kfz-	Thank you for your comment providing further examples from the German insurance market.

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		<p>Versicherung von zentraler Bedeutung für die dt. Versicherungswirtschaft.</p>	
5	MACIF	<p>We do not use the techniques mentioned as part of our rating or underwriting process.</p> <p>The ability for consumers to change insurers easily is an additional tool to prevent pricing abuse or ensure that tariffs do not harm consumers. This is the case for example in France. The No. 2014-344 French Law of March 17, 2014 on consumer affairs, known as Hamon law, has been in force since 2015. It allows policyholders to terminate their insurance contract whenever they want after 1 year of membership, without being exposed to penalties. The No. 2005-67 of January 28, 2005 French law to strengthen consumer confidence and protection, known as Chatel law, came into force in January 2008. It imposes upon insurers to inform their clients of the approaching anniversary of their contract. Policyholders can therefore request cancellation before the tacit renewal of their contract, if they wish to change it.</p> <p>This means that any vulnerable citizens as well as any consumer can switch and take advantage of the competition</p> <p>Introducing into the tariffs elements other than the pure cost of the risk and the management costs is intrinsically constitutive of the functioning of insurance, which mutualizes the risks.</p> <p>On top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital.</p> <p>Additionally within a given product, some profiles may exhibit steep risk evolution such as that of young drivers. The full "cost of risk" is not charged to young drivers (but is mutualized with older, less risky profiles) in the hope that those young drivers will mature and turn into less risky policyholders that will in turn contribute to the stability and sustainability of the system. But what if tomorrow the mutualisation of</p>	<p>Thank you for your comment. As previously mentioned, the Supervisory Statement aims to provide further clarity about the supervisory expectations with regards to the applicable legal framework, in particular to address risks for consumers, including from vulnerable groups. It also promotes supervisory convergence and the fair treatment of customers.</p> <p>Moreover, risks-based pricing practices including the mutualisation of risks are not included in the scope of the Supervisory Statement. This has been explicitly mentioned in the revised Supervisory Statement.</p>

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		<p>rates is forbidden in the premium calculation? Young drivers will no longer benefit from mutualized rates with experienced drivers. Their premiums will become much higher, as can be observed in the United Kingdom and the United States. This will make it more difficult for these people to finance their coverage, which would be counterproductive and can lead to a major increase of non-insurance driving among this population.</p> <p>Some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks with climate change. Here again, the full cost may not be charged to the policyholders in an attempt to retain policyholders as part of an equipment journey.</p> <p>All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship.</p> <p>While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.</p>	
		<p>2.3. Such pricing techniques, here referred to as differential pricing practices, are not new for the insurance sector. However, advances in technologies such as Artificial Intelligence (AI) and the greater availability of new datasets (Big Data), enable insurance firms to increasingly tailor the premium paid by consumers to their personal behaviours and characteristics. Technological advances also make it possible to increasingly automate and implement at scale differential pricing practices, therefore increasingly affecting a larger number of consumers and raising important concerns of possible detrimental outcomes for consumers.</p>	
6	Deutsche Aktuarvereinigung e.V.	Differential pricing practices (DPP) can also be applied without new technologies like e.g., AI methods or the use of Big Data. However, we agree that AI methods do place some additional requirements on	Thank you for your comment. Indeed the supervisory statement follows a technology neutral approach and it is applicable to

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		<p>the user in terms of transparency and controllability. If additional regulation is required, the regulatory requirements regarding DPP should be formulated in a precise manner to avoid detrimental outcomes for customers – esp. also irrespective of the methods used.</p>	<p>differential pricing practices regardless of the tool or technology used. It is also principles-based so as to allow insurance manufacturers to implement the governance and risks management measures that best adapt to the nature, scale and complexity of their business, including the technologies used. Similarly, the Supervisory Statement follows a method-neutral approach and applies to all types of differential pricing practices. As mentioned above the Supervisory Statement follows a risk-based approach and takes into account both the processes followed to adopt such pricing practices, as well as their outcomes. Therefore, it also highlights which practices raise higher supervisory concerns, namely the so-called price-walking practices, and within the latter it includes some examples of practices which are particularly concerning from a supervisory perspective.</p>
7	<p>Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung</p>	<p>Grundsätzlich trägt der technische Fortschritt auch an dieser Stelle dazu bei, die verwendeten Verfahren weiter zu verfeinern. Allerdings hat DPP nach unserer Wahrnehmung bereits in der Vergangenheit stattgefunden. Inwieweit die Problematik der DPP tatsächlich noch verschärft wird, muss abgewartet werden. Insofern ist ein klarer regulatorischer Rahmen aus Verbraucherschutz-Sicht zu begrüßen.</p>	<p>Thank you for your comment. EIOPA agrees that a clarification of the supervisory expectations with regards to differential pricing practices will be beneficial from a consumer protection perspective.</p>
8	<p>MACIF</p>	<p>As you indicate, some non-European countries have been able to use these differential pricing techniques and Artificial Intelligence could eventually slightly facilitate these practices. They are not used by our company. We believe that these practices are very limited, and not used by the majority of major market players in France. Technological advances also have beneficial effects such as enhancing mutualization. Premature regulation could nip in the bud the innovation expected by policymakers, markets and consumers.</p>	<p>Thank you for your comment. Evidence gathered from the public consultation as well as through other workstreams of EIOPA indeed show some differences amongst countries, but the use of differential pricing practices has been observed in several EU Members States and they are expected to increase in the years to come, hence the need for the Supervisory Statement.</p>

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		<p>2.4. Market competition is an important driver of differential pricing practices: over the past years the European non-life insurance sector has experienced an increasingly competitive environment, in which insurance firms not only compete on services and cover offered, but also increasingly on price. This is the result of a wide range of factors such as the entry of new competitors or consumers becoming more price sensitive (e.g., use of comparison websites). And, while price competition is welcomed, as it delivers better outcomes for consumers, some types of differential pricing practices can lead to unfair treatment of some consumers.</p>	
9	Deutsche Aktuarvereinigung e.V.	<p>We agree on the point, that price competition leads to better outcomes for consumers in a free market. If required, regulation with respect to DPP should therefore take into account that restrictions on competition can lead to detrimental outcomes for costumers.</p> <p>Note: in Germany non-life insurance is usually understood as P&C and does not refer to health insurance. We will stick to this point of view for our answer.</p>	<p>Thank you for your comment. Eiopa agrees that competition in the markets is beneficial for consumers; the Supervisory Statement has aimed to strike a balance between ensuring consumer protection and enabling consumers to benefit from competition in the markets, obtaining premium discounts and shopping around for better deals. Insurance manufacturers are also provided with flexibility to continue offering premium discounts to attract and retain consumers.</p> <p>The Supervisory Statement has also clarified that by non-life insurance it should be understood the non-life insurance classes included in Annex I of the Solvency II Directive.</p>
10	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Wie bereits in 2.2. ausgeführt, teilen wir diese Sichtweise für den dt. Kfz-Versicherungsmarkt. Dies hat in den letzten Jahren durch die zunehmende Bedeutung von Aggregatoren bzw. Preisvergleichern zugenommen. Der „fleißige“ Kunde, der jedes Jahr den Anbieter wechselt oder zumindest mit seinem Versicherer verhandelt, wird zumeist mit günstigeren Prämien belohnt, während der „träge“ Kunde zumeist durch die jährlichen Beitragsanpassungen bei zahlreichen Anbietern die attraktiven Konditionen für Neukunden finanziert.</p>	<p>Thank you for your comment. The practices described are in line with the ones observed by Eiopa and which justify the Supervisory Statement's aim to protect consumers, while allowing them to benefit from competition in the markets, premium discounts and shopping around for better deals. Insurance manufacturers are also provided with flexibility to continue</p>

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			offering premium discounts to attract and retain consumers.
11	MACIF	<p>This assertion is far from reflecting reality. Competition in insurance only benefits the good risks, leaving a majority of policyholders behind. Typically, in home insurance, the new Insurtech entrants on the market concentrate on the least risky and most profitable risks (such as apartments in urban locations) and leave the traditional insurers to shoulder the burden of taking in risks and costs related drought, floods storms and other climate or natural disaster effects for homeowners in rural areas.</p> <p>As indicated before, on top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital.</p> <p>Acquisition costs, especially for mature markets with fierce competition, are often high and need to be compensated over several years of standard return.</p> <p>The allocated cost of capital also includes projection of lapse rate and likely detention to estimate the future stream of incomes and losses.</p> <p>Additionally, within a given product, some profiles may exhibit steep risk evolution such as that of young drivers. The full "cost of risk" is not charged to young drivers (and thus mutualized with older, less risky profiles) in the hope that those young drivers will mature and turn into less risky policyholders that will in turn contribute to the stability and sustainability of the system. But what if tomorrow the mutualisation of rates is forbidden in the premium calculation? Young drivers will no longer benefit from mutualized rates with experienced drivers. Their premiums will become much higher, as can be observed in the United Kingdom and the United States. This will make it more difficult for these people to finance their coverage, which would be counterproductive and can lead to a major increase</p>	<p>Thank you for your comment. EIOPA believes that competition in the markets is beneficial for consumers, while it also acknowledges that there can be situations where protection gaps may arise and deserve supervisory attention like in the example mentioned about climate change.</p> <p>As mentioned on a similar comment above, underwriting risk-based pricing practices including mutualisation of underwriting risks between low and high underwriting risk consumers are out of the scope of the Supervisory Statement.</p>

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		<p>of non-insurance driving among this population.</p> <p>Some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks with climate change. Here again, the full cost may not be charged to the policyholders in an attempt to retain them as part of their equipment journey.</p> <p>All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship.</p> <p>While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.</p>	
		<p>2.5. Consumers who are more prone to search for a better deal and switch at point of renewal are more likely to benefit from lower insurance premiums. On the other hand, consumers who are less price sensitive, who are unaware of these practices, or who are more likely to renew their insurance products without searching for an alternative, are more likely to lose out due to differential pricing. Insurance firms may identify that they are able to charge these consumers more and target them with premium increases at the renewal stage during their tenure with the company, leading to unfair consumer outcomes.</p>	
12	Deutsche Aktuarvereinigung e.V.	<p>For the insurance companies it must be clear to what extent the use of DPP is acceptable and what measure would be used to determine this extent. For this purpose, a concept of materiality could be used. In addition, the scopes and boundaries of DPP must be defined precisely. It must be clearly recognizable for insurance companies, which DPP is compliant to avoid inefficiencies and legal risk on the one hand and unfair treatment of consumers on the other hand.</p> <p>Regarding the German market we would like to point out that renewal</p>	<p>Thank you for your comment. The Supervisory Statement clarifies what are the supervisory expectations concerning the existing regulatory requirements, while at the same time it follows a risk-based and principles based approach allowing insurance manufacturers sufficient flexibility to adapt the product oversight and</p>

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		<p>is different and stronger regulated than in other EU-markets. Contracts are usually renewed automatically with strict boundaries on the change of prices.</p>	<p>governance measures to the nature, scale and complexity of their business.</p> <p>Eiopa also recognises that national insurance legislations may establish more detailed requirements directly relevant to differential pricing practices and this Supervisory Statement does not affect those requirements. Following a risk-based approach, competent authorities should carry out market monitoring activities to identify those products for which differential pricing practices are used and for which they believe the highest risks for consumers exist.</p>
13	<p>Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung</p>	<p>Siehe Ausführungen zu 2.4.</p> <p>Aus Verbraucherschutz-Sicht lehnen wir eine preisliche Differenzierung unter Ausnutzung der (fehlenden) Preissensitivität gewisser Kundengruppen grundsätzlich ab, da es letztlich intransparent für den Kunden ist.</p> <p>An dieser Stelle ist eine Anmerkung bzgl. einer Besonderheit des dt. (Kfz-)Versicherungsmarktes notwendig. Hier unterscheidet sich der Renewal-Prozess bspw. von dem in UK. Die deutschen Versicherer führen in der Regel jährlich neue Tarifgenerationen ein, was der überwiegenden Mehrheit der Versicherungskunden bisher nicht bekannt sein dürfte. Damit sind die Prämien zunächst nicht direkt miteinander vergleichbar, da formal unterschiedliche Leistungsversprechen mit jeder Tarifgeneration hinterlegt sind. Damit werden teilweise resultierende Prämienunterschiede zwischen Neu- und Bestandskunden gerechtfertigt. Allerdings sind die Leistungsunterschiede meistens vernachlässigbar gering. So werden in regelmäßigen Abständen Entschädigungsgrenzen angepasst, z.B. sind Folgeschäden bei Tierbiss bis 3.000 EUR statt bisher 2.000 EUR abgesichert, wobei diese Anpassungen den erwarteten Schadenbedarf nur marginal verändern. Dabei wird der</p>	<p>Thank you for your comment providing further evidence that the price formation in insurance is complex and difficult to understand for an average retail consumer.</p>

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		<p>Deckungsumfang bei neueren Tarifgenerationen sogar tendenziell ausgeweitet, was dann eigentlich zu einer entsprechenden Preiserhöhung im Neugeschäft führen müsste.</p>	
14	MACIF	<p>MACIF abides fully to the European and French regulations which prohibit unfair commercial practices and is moving towards facilitating non life insurance changes, such as Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market, transposed in France by law n° 2008-3 of January 3, 2008, known as the "Chatel law" and integrated into the Consumer Code in articles L. 121-1 to L. 121-7 and L. 132-1 to L. 132-12. Customers can switch and take advantage of the competition.</p> <p>In particular, MACIF abstains from using commercial aggressive practices that could, as a result of repeated and insistent solicitations or the use of moral constraint : alters or is likely to significantly alter a consumer's freedom of choice; distorts or is likely to distort the consent of a consumer; interferes with the exercise of a consumer's contractual rights. The current regulations are sufficiently effective.</p> <p>On top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital.</p> <p>Additionally within a given product, some profiles may exhibit steep risk evolution such as that of young drivers. The full "cost of risk" is not charged to young drivers (and thus mutualized with older, less risky profiles) in the hope that those young drivers will mature and turn into less risky policyholders that will in turn contribute to the stability and sustainability of the system. But what if tomorrow the mutualisation of rates is forbidden in the premium calculation? Young drivers will no longer benefit from mutualized rates with experienced drivers. Their premiums will become much higher, as can be observed in the United Kingdom and the United States. This will make it more difficult for these people to finance their coverage,</p>	<p>Thank you for your comment. Please refer to the reply to a similar comment above where we address the issues raised in this comment.</p>

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		<p>which would be counterproductive and can lead to a major increase of non-insurance driving among this population.</p> <p>Some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks with climate change. Here again, the full cost may not be charged to the policyholders in an attempt to retain policyholders as part of an equipment journey.</p> <p>All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship.</p> <p>While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.</p>	
		<p>2.6. This would be particularly concerning when the groups of consumers that suffer most are more vulnerable consumers (e.g., older consumers or consumers with limited access to digital channels which makes it difficult to shop around). There may be other factors affecting consumers' ability to switch, for instance if they do not have time or knowledge to search and switch to a cheaper provider due to a particular life circumstance.</p>	
15	Deutsche Aktuarvereinigung e.V.	<p>It must be clearly defined for insurance companies which DPP is compliant to potential upcoming further regulation. For this purpose, it must be clearly determined, especially from a regulatory perspective, which customer group is considered a vulnerable group. Since target segments in the sense of DPP are usually defined multidimensionally and dynamically this definition has to be as clear as possible. The given explanations are too vague to define a good regulation.</p> <p>We would also like to point out, that it may be impossible to distinguish consumers, that don't want to shop around and are willing to pay a higher price, from those whose who are simply not able to. A</p>	<p>Thank you for your comment. As previously mentioned the Supervisory Statement aims to clarify the supervisory expectations, while at the same time allowing flexibility to stakeholders. Concerning the definition of vulnerable groups, examples of groups of vulnerable consumers are provided. A close list of groups of vulnerable consumers is not possible, among other things because many of the different factors and groups that can be considered as being vulnerable overlap, leading to what might be described as</p>

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		<p>regulation, that does not take this into account can result in prices favoring wealthier consumers (note, that for example younger consumers tend to have less money at their disposal than older consumers).</p>	<p>“intersectional vulnerability”. This can mean that they can be faced with numerous, cumulative barriers to financial inclusion. Therefore the Supervisory Statement is principle-based and offers sufficiently flexibility to insurance manufacturers to adapt the product oversight and governance measures to the nature, scale and complexity their business model.</p>
16	<p>Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung</p>	<p>Vermutlich gibt es gewisse Kundengruppen, die anfälliger für die Ausnutzung ihrer fehlenden Preissensitivität sind, da sie sich bspw. nicht so gut mit Finanzthemen auskennen.</p> <p>Die Begrifflichkeit „verletzlicher Kunden“ führt allerdings eine neue Komplexitätsdimension ein, da eine formale Definition erforderlich ist. Insofern sind wir der Meinung, dass dies die Intransparenz noch weiter fördert.</p>	<p>Thank you for your comment. Please see previous comment concerning the definition of vulnerable groups.</p>
17	<p>MACIF</p>	<p>In addition to taking risks and service costs into account, pricing is also influenced by mutualisation to share the burden between different segments of policyholders. But if regulators were to forbid mutualisation of rates in the premium calculation, young drivers would no longer benefit from mutualized rates with experienced drivers. Their premiums would become much higher, as can be observed in the United Kingdom and the United States. This would make it more difficult for these people to finance their coverage, which would be counterproductive.</p> <p>MACIF's reception points and domestic telephone platforms offer national coverage, complemented by digital channels, which make it possible to satisfy all populations, whether vulnerable or not, young or old, digitally active or not.</p>	<p>Thank you for your comment. Underwriting risk-based pricing practices, including mutualisation of underwriting risks between high and low underwriting risk consumers, are out of the scope of the Supervisory Statement.</p>

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		This lecture would also benefit from differentiating mandatory coverages that policyholders are legally forced to underwrite from optional covers that policyholders are entirely free to underwrite or not.	
		2.7. The increasing use of different types of behavioral data not related to risk or cost of service for differential pricing practices also increases the risks that some of these datasets can be biased (i.e. correlated with protected characteristics) and therefore increases the risks of indirect discrimination. These risks could be amplified when data is processed with complex AI systems, which can find multivariable non-linear combinations between the variables of the model and, therefore, potentially reconstruct protected information.	
18	Deutsche Aktuarvereinigung e.V.	DPP can also be applied without AI methods or the use of Big Data. However, we agree that AI methods do place some additional requirements on the user in terms of transparency and controllability. DPP regulations should however be formulated irrespective of the methods or data used.	Thank you for your comment. Indeed the supervisory statement follows a technology neutral approach and it is applicable to differential pricing practices regardless of the tool or technology used. It is also principles-based so as to allow insurance manufacturers to implement the governance and risks management measures that best adapt to the nature, scale and complexity of their business, including the technologies used.
19	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Auch diese Problematik dürfte bereits heute in den am Markt verfügbaren Tarifen enthalten sein, kann aber durch eine Erweiterung der verfügbaren Methoden noch verstärkt werden.	Thank you for your comment. EIOPA agrees that new technologies raises new challenges which insurance manufacturers need to address when implementing differential pricing practices.
20	MACIF	The use of behavioral data could also be used to provide insurance products and services and offer prevention recommendations tailored to the individual circumstances of policyholders. Indiscriminately preventing the use of behavioral data could be counterproductive, notably by making our prevention programs less effective. A better understanding of the policyholder's behavior through these data can have a positive direct impact on reducing the risk and encourage good policyholders' behavior.	Thank you for your comment. The Supervisory Statement does not address the use of behavioral data for practices such as prevention recommendations. EIOPA acknowledges that risks arising from biased datasets can also arise with underwriting risk-based pricing practices. However, the

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		<p>Besides, it should be noted that “correlated with the protected characteristics” does not necessarily mean biased. As stated by the European Commission in its Guidelines on the application of Council Directive 2004/113/EC to insurance, in the light of the judgment of the Court of Justice of the European Union in Case C-236/09 (Test-Achats) : “ The use of risk factors [which might be correlated with gender] therefore remains possible, as long as they are true risk factors in their own right”(Guideline n°2.3.17) . For example, price differentiation based on the size of a car engine in the field of motor insurance should remain possible, even if statistically men drive cars with more powerful engines. In contrast, a differentiation based on the size or weight of a person in relation to motor insurance would not be allowed.</p> <p>As highlighted in 2019 by the industry in its response to the EU draft guidelines on trustworthy AI, the basic principle of insurance is the accurate assessment of risk. It is therefore important to distinguish between fair risk assessment and unfair discrimination. Industries, including insurance, should be able to use machine learning methods to perform dynamic pricing provided that they have data governance processes in place to ensure that factors which are legally prohibited (e.g. discriminatory factors) are removed from the decision-making process. In this regard, we appreciate that the European Commission High-level expert group on AI recognised that there is currently no legal vacuum in Europe given the existing many regulations that apply to AI and its use. The insurance industry is a highly regulated and supervised sector at national and European level which ensures a trustworthy AI, based on a solid experience in using data and new technologies in a responsible and secure manner.</p> <p>Besides, there is still an unclear link between actuarially fair premiums, probabilistic discrimination free ratings (i.e. rating structures that completely describe the risk distribution based on available covariates and that do not benefit from having access to the protected attribute) and group fairness principles inherited from</p>	<p>Supervisory Statement focuses on non-underwriting risk based pricing practices. Furthermore, based on the evidence available at EIOPA the methods and datasets used in non-underwriting risk pricing practices can differ from those used for risk-based pricing practices.</p>

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		<p>machine learning. Please refer to https://arxiv.org/pdf/2209.00858.pdf, for a more in depth perspective.</p> <p>Finally, as pointed out by Lindholm and al. in the same publication, the existence of protected characteristics also raises issues about the way one can process non protected characteristics : “Non-protected covariates may be context-sensitive. E.g., the European Commission [European Commission (2012). Guidelines on the application of Council Directive 2004/113/EC to insurance, in the light of the judgment of the Court of Justice of the European Union in Case C-236/09 (Test-Achats).], footnote 1 to Article 2.2(14) – life and health underwriting – mentions the waist-to-hip ratio as a non-protected (useful) covariate for health prediction. Note the following: The waist-to-hip ratio is gender dependent. The waist-to-hip ratio is age dependent. The waist-to-hip ratio is race dependent. The waist-to-hip ratio for females depends on the number of born children. Etc. Thus, a waist-to-hip ratio X (if non-protected) can only be correctly interpreted under the knowledge of protected information. This will require that we pre-process non-protected characteristics to common units. A similar situation may, e.g., occur with age, as the chronological age may be predictive for car driving experience, whereas in life insurance we should rather choose a biological age (which uses gender information). This raises the general issue of how to consider non-protected information that may be context-sensitive and may only be fully explanatory under the inclusion of protected information. Generally, this will result in the question of how to pre-process non-protected information.”</p>	
		<p>2.8. A recent study from the Central Bank of Ireland on differential pricing practices in private car and home insurance markets found empirical evidence that younger policyholders tend to have shorter tenures, whereas older policyholders tend to have longer tenures. As older customers tend to have a longer tenure, there is a concern that older, and potentially vulnerable, customers are disproportionately</p>	

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		<p>impacted by differential pricing practices. Following the assessment of these practices, the Central Bank of Ireland concluded that price walking practices could result in unfair outcomes for some consumers and introduced a number of measures to strengthen the consumer protection framework, including a ban on price walking practices on policyholders' second or subsequent renewal.</p>	
21	<p>Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung</p>	<p>Ohne die Studie im Detail zu kennen, überraschen die Ergebnisse nicht und dürften – bei einer entsprechenden Analyse – auch für den dt. Versicherungsmarkt empirisch belegt werden können.</p>	<p>Noted. Thank you for your comment.</p>
22	<p>MACIF</p>	<p>Macif doesn't practice price walking.</p> <p>In Motor Insurance the actuarial risk varies significantly with age and experience, and using it is an authorized practice. There are many situations where the risk increases very rapidly with age. Mutualisation reduces the price increase that would occur if everyone was priced according to the actual risk to which they are exposed.</p> <p>Young customers usually start with their parents' insurer and when they become financially independent they may be tempted to go elsewhere. Their tenure is naturally shorter compared to older citizens. Older clients also remain loyal because throughout their lives they have been able to choose an insurer that offers solutions tailored to their needs and at the right price. They do not feel the need to fight over price or change insurers at the risk of being badly served. Quality comes at a price.</p> <p>Current regulation and market practice in France are sufficient and do not require further regulation which could be counterproductive and limit competition.</p> <p>A key factor also determining MACIF practices is its belonging to the mutual insurance sector. A mutual insurance company or mutual society is a non-profit company, which is constituted according to the principles of solidarity and mutual aid. One of the legal requirements</p>	<p>Thank you for your comment. The Supervisory Statement does not introduce new regulatory requirements. It clarifies, in the context of differential pricing practices, what at the supervisory expectations with regards to the existing requirements within the IDD legal framework.</p>

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		<p>applied to mutual insurance companies governed by the French insurance code and mutual societies governed by the French mutuality code (being part of the social and solidarity economy) is the equal treatment of policyholders/members presenting the same risk.</p> <p>This regulation forbids differential pricing practices whereby consumers presenting similar risk and cost-of-service characteristics would be charged different premiums for the same insurance products. MACIF is therefore of the opinion that such regulation adequately prevents the "price walking" practice targeted by EIOPA and the application of higher premiums at renewal stage. Likewise, it adequately prevents premium differentiation based on the analysis of a single consumer's particular profile and likely behavior unrelated to risk or cost of services, such as the premium increase it would tolerate before looking around for better offers and possibly switching to another insurance provider. Macif fully complies with this regulation.</p>	
		<p>2.9. Another study from the Dutch Authority for the Financial Markets acknowledged the use of differential pricing practices in their jurisdiction, and, noted that, in line with the findings of the Financial Conduct Authority of the UK in a related report, the competitive pressure could override the moral compass: insurers who were morally opposed to the loyalty penalty implemented it, nevertheless, to maintain or bolster their competitive position. The Dutch Authority also noted that in addition to the margin component of the premium covered by differential pricing practices, price differentiation practices also take place on the actuarial component of the premium and, could potentially also be done on the basis of the terms and conditions of an insurance product.</p>	
23	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Dies ist letztlich ein Ergebnis des zunehmenden Wettbewerbs, dass nicht zuletzt durch das Aufkommen von Preisvergleichen forciert wurde. Sobald die ersten Versicherer mit DPP beginnen, sind auch die Wettbewerber gezwungen, ähnliche Wege zu gehen, wenn sie nicht bereit sind, auf Marge zu verzichten oder das Geschäft zu gewissen oder gar überwiegenden Teilen zu verlieren.</p>	<p>Thank you for your comment. EIOPA shares the view that competition in the markets is an important driver of these practices.</p>

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24	MACIF	<p>In France, the regulator and market practices already provide a sufficient moral compass. New constraints could harm the free and healthy competition between insurance providers that benefits customers.</p> <p>While MACIF does not implement nor support price walking and differential pricing techniques, there is a risk that introducing or modifying the existing adequate legal framework would incidentally harm practices that are necessary to the financial stability of insurance companies :</p> <p>Acquisition costs, especially for mature markets with fierce competition, are often high and need to be compensated over several years of standard return.</p> <p>The allocated cost of capital also includes projection of lapse rate and likely detention to estimate the future stream of incomes and losses.</p> <p>Additionally within a given product, some profiles may exhibit steep risk evolution such as that of young drivers. The full "cost of risk" is not charged to young drivers (and thus mutualised with older, less risky profiles) in the hope that those young drivers will mature and turn to loyal policyholders that will in turn contribute to the financial stability of the system.</p> <p>On the other hand some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks. Here again, the full cost may not be charged to the policyholders in an attempt to retain them as part of their equipment journey.</p> <p>All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship.</p>	<p>Thank you for your comment. Please see response above to a similar comment addressing similar issues.</p>

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		While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.	
		2.10. In Sweden, in February 2022 Finansinspektionen launched a market study to assess the impact on retail consumers of differential pricing practices in motor and home insurance in their jurisdiction. The findings of this study are expected to be published in Q2-Q3 2022. Italy's Istituto per la vigilanza sulle assicurazioni is also expected to publish a report on this matter in Q3-Q4 2022.	
25	MACIF	We are looking forward to reading the findings of these studies. Current regulation and market practice in France are sufficient and do not require further regulation which could be counterproductive and limit competition.	Thank you for your comment. The results of Finansinspektionen where published in July 2022. A link to the assessment of these practices by the Italian supervisor has also been included in the revised supervisory statement.
		2.11. Outside of the European Union, in the United Kingdom the Financial Conduct Authority introduced new rules on general insurance pricing practices, including a ban on price walking practices. In the United States of America (USA) the National Association of Insurance Commissioners (NAIC) published a White Paper on price optimisation in November 2015, concluding that some price optimisation practices could be considered as unfairly discriminatory. Several States from the USA subsequently prohibited or restricted the use of such pricing practices in insurance.	
26	Deutsche Aktuarvereinigung e.V.	We would like to emphasize that in the UK the prices for new business increased after regulation where taking effect. This can be interpreted as a sign of decreasing of competition due to increased pricing regulation.	Thank you for your comment. While indeed the UK has sought to address differential pricing practices in their market, the approach followed in the present Supervisory Statement to tackle them is different from the one adopted by the UK, and hence the impact may also differ.
27	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Ein Verbot solcher Preisanpassungsstrategien kann eine mögliche Lösung für die Problematik sein. Zunächst ist die Frage zu beantworten, ob in der Schaden-/Unfallversicherung in Deutschland ein weitergehender Gleichbehandlungsgrundsatz gelten soll, wie er für die Lebens- und Krankenversicherung bereits gilt, d.h. nicht nur	Thank you for your comment. The banning of differential practices was one of the policy options considered by EIOPA, but based on the impact assessment it was deemed not to be the adequate policy option at this stage.

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		<p>innerhalb derselben Tarifgenerationen zahlen gleich Risiken denselben Preis, sondern auch über Tarifgenerationen hinweg (sofern die die Änderung im Leistungsumfang vernachlässigbar ist). Nur damit könnte man ausschließen, dass durch die Einführung jährlicher Tarifgenerationen diese Praktiken in Deutschland umgangen werden.</p>	
28	HUK-COBURG VVaG	<p>As mentioned in the answers of Q5 and Q6, non-risk-based price differentiation is not undesirable, unfair or illegal. Differential pricing can promote fair competition. Fair competition is beneficial for everyone, especially for consumers and the community of insured persons. If competition is shut down, for example due to a general ban on certain pricing methods, this will favour monopolisation – to the advantage of the biggest insurer with the lowest cost per unit, and to the detriment of medium and small insurers. Monopolies, and especially price monopolies, are detrimental to consumers.</p>	<p>Thank you for your comment. The Supervisory Statement does not ban differential pricing practices. Differential pricing practices that comply with existing regulations can still take place. Indeed, following a risk-based approach, there are certain differential pricing practices that raise fewer supervisory concerns than others.</p>
29	MACIF	<p>Current insurance practices and regulation in France make it possible to prevent the hyper-segmentation and demutualization that can be observed outside the European Union with prohibitive prices for young drivers or people in poor health.</p> <p>Besides, it could be interesting to differentiate mandatory coverages that policyholders are legally forced to underwrite from optional covers that policyholders are entirely free to underwrite or not. In France, the Bureau Central de Tarification ensures that anybody can subscribe mandatory insurance covers at a prescribed price, should the market fail to provide it spontaneously. Such ad-hoc solutions are efficient while letting the market and competition adjust to provide globally efficient prices.</p>	<p>Thank you for your comment. EIOPA also acknowledges that there may be differences on how differential pricing practices are applied across national markets due to a variety of reasons such as the level of competition in the markets or the existence of national rules affecting renewals. For this reason, the Supervisory Statement follows a risk-based approach, allowing national competent authorities to define the scope of their supervisory work in those areas where they consider that greater threats to consumer protection exist.</p>
		<p>2.12. In 2018, the European Supervisory Authorities (ESAs) published a report on the use of Big Data by financial institutions. The report, which was preceded by a public consultation, identified the benefits and risks of Big Data in the securities, banking and insurance sectors. Among other things, the report highlighted the use of differential pricing practices which could result in the unfair treatment of consumers.</p>	

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30	Deutsche Aktuarvereinigung e.V.	<p>The report pointed to the use of DPP that could lead to unfair treatment of consumers. However, DPP can also occur completely without the use of Big Data. Regarding DPP, if there is additional regulation required, this regulatory requirements should be formulated in a general manner, irrespective of the methods used, in particular irrespective of Big Data.</p>	<p>Thank you for your comment. Eiopa acknowledges that differential pricing practices can be used without Big Data. The Supervisory Statement does not prevent the use of Big Data and AI systems, but it takes into account both the processes followed as well as the outcome. It therefore highlights which practices raise higher supervisory concerns, namely the so-called price-walking practices, and within the latter it also includes some examples of practices which are particularly concerning from a supervisory perspective.</p>
31	MACIF	<p>Big data also has the potential to meet user needs. It is important to ensure that these benefits are retained. Regulatory scrutiny over insurance practices has been in force for a long time, and answers were provided long before big data became fashionable. The use of big data or AI in insurance does not represent a high risk of infringing consumers' fundamental rights or safety. Current regulation and market practice in France are sufficient and do not require further regulation which could be counterproductive and limit competition.</p> <p>As underlined by Insurance Europe in its response to the ESAs joint discussion paper in 2017, big data analytics and the use of predictive modeling are not new concepts in insurance. Actuaries already analyze large sets of data to identify correlations and predict future events, such as mortality tables, to price life insurance products. With technological advances, the wealth of data and computing power is changing, which, in combination with advanced data mining and analytics tools, enable insurers to adopt new business approaches and products, enhancing existing internal models, processes and services.</p> <p>However, the use of these tools in insurance is still in its infancy and it is difficult to predict which specific innovative uses of data will prove successful and how widespread their adaptation will become in the market. This will depend on various factors, such as the</p>	<p>Thank you for your comment. Please see the comment above regarding the use of Big Data by insurance manufacturers.</p>

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		<p>attractiveness of innovative product offerings to consumers, or the advantageousness of the new tools compared to current practice. Other factors like consumers' willingness to share their data with the insurers but also the quality and accuracy of the data, are also expected to play a significant role.</p>	
		<p>2.13. In 2019, EIOPA published a thematic review on the use of Big Data Analytics (BDA) in motor and health insurance, which showed that 59 out of the 222 firms that participated in the survey (i.e. 26%) already used or planned to use in the next 3 years BDA tools in pricing and underwriting. However, only 19 of them made explicit reference to the use of BDA for differential pricing and/or churn models.</p>	
32	MACIF	<p>It is important to be able to use the potential of big data to provide personalized responses that are adapted to the client's situation in order to better support them and prevent risks. Churn models can also be used to identify customers who might leave us to ensure that we are meeting their needs or to determine what adjustments need to be made to their coverage to continue to serve them well and retain them.</p> <p>While insurance companies machine learning models, just like they considered Generalized Linear Models (GLM) back in the 1990's, the reality is that machine learning models are by large not used in high stake applications like pricing, which still largely revolve around naturally interpretable models such as GLMs.</p> <p>There are sound theoretical and practical reasons for this as GLMs were refined over years now, leaving little room for improvement, while stakeholders like we have in mutual insurance companies need rationals to enact any change in rating structure.</p> <p>Current regulation and market practice in France are sufficient and do not require further regulation which could be counterproductive and limit competition or affect mutualization.</p>	<p>Thank you for your comment. Please see the comment above regarding the use of Big Data by insurance manufacturers.</p>

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		<p>2.14. EIOPA's Big Data Analytics thematic review also provided evidence on some of the rating factors used in pricing and underwriting in insurance. While the majority of rating factors used were perceived as having a direct causal link to risk (e.g. type of cars, years of driving experience, age of the driver), other types of rating factors (e.g. distribution channel, tenure with the company, or income) were perceived as having a more indirect causal link, likely more relevant for differential pricing purposes.</p>	
33	Deutsche Aktuarvereinigung e.V.	<p>We like to stress, that in general it is impossible to determine, if DPP was used in creating a final price by observing the prices ex post. On the one hand the connection between risk and/or costs and the used rating factors may not be obvious. Cost allocation could even defer between target groups or different distribution channels. On the other hand observed price differences may appear solely due to deviances in the portfolio structure used for price evaluation.</p> <p>The usual actuarial process of developing risk and tariff models includes a detailed analysis of the impact of each rating factor on the claims experience. Hence the latter kind of rating factors most likely will have a significant impact on claims experience, if it is in the tariff model.</p>	<p>Thank you for your comment. EIOPA agrees that there is a need to observe both the processes followed as well as the outcomes of the differential pricing practices. The reference to distribution channels has been removed from the Supervisory Statement since indeed there can be relevant differences in terms of costs between distribution channels.</p>
34	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Letztlich ist es ein Ergebnis des zunehmenden Wettbewerbsdrucks in der Versicherungsindustrie. Jeder Wettbewerber versucht sein eigenes Risikomodell noch weiter zu differenzieren, um sich insbesondere die „guten“ Risiken (i.S.v. unterdurchschnittlichen Schadenaufwendungen) zu sichern. Dies führt dazu das immer mehr Risikomerkmale verwendet werden, um die Preisdifferenzierung zu verfeinern.</p>	<p>Noted, thank you for your comment.</p>
35	HUK-COBURG VVaG	<p>The statement that factors like the distribution channel do not have a direct link to loss events, and that their use must therefore be considered as non-risk-based, is not accurate. The 'distribution channel' factor has a correlation with loss events and is therefore risk-based. This can be proven by statistics.</p> <p>Furthermore, the distribution channel through which the insurance</p>	<p>Thank you for your comment. See the response to the previous comment.</p>

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		<p>contact is initiated and administered can certainly be a cost factor. For example, onboarding of a customer on the insurer's own website is less costly than onboarding via a comparison website. Comparison websites charge high commissions. Platform intermediaries often steer customers to a different insurer each year, which means that commissions, i.e. additional costs, are incurred again.</p> <p>It is the existence of a statistical correlation that determines whether a factor can be used for risk-oriented pricing. This aspect should be rectified.</p> <p>Besides: Traditional rating factors in motor insurance, such as vehicle model and driver's age, are not direct price determination factors with a causal link between factor and loss event either. These factors are based on statistics and give an essential indication as to the likelihood of the frequency and amount of future losses.</p>	
36	MACIF	<p>Distribution channels have different cost structures and associated services. Marketing costs are an integral part of the value proposition. Revenues are useful in assessing the financial situation of customers and providing them with solutions that fit their budget. Knowing the strength of the relationship between the customer and the company also helps identify whether the customer, without impacting the price. We would also like to stress that the causal reasoning of the question (which we support) is at odds with the broad definition of 2.7.</p> <p>As underlined by Insurance Europe in its response to the ESAs joint discussion paper in 2017, big data analytics and the use of predictive modeling are not new concepts in insurance. Actuaries already analyze large sets of data to identify correlations and predict future events, such as mortality tables, to price life insurance products. With technological advances, the wealth of data and computing power is changing, which, in combination with advanced data mining and analytics tools, enable insurers to adopt new business approaches and products, enhancing existing internal models, processes and services.</p>	<p>Thank you for your comment. See the previous response about the reference to distribution channels.</p> <p>EIOPA agrees that the use of AI systems in insurance are still at an early stage, but there is evidence that already a considerable number of insurance undertakings are using them. While the Supervisory Statement is technologically neutral, the increase in sophistication of methods and technologies used needs to be balanced by increasing sophistication of governance and risk management processes, including by monitoring the outcomes of those methods and technologies</p>

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		<p>However, the use of these tools in insurance is still in its infancy and it is difficult to predict which specific innovative uses of data will prove successful and how widespread their adaptation will become in the market. This will depend on various factors, such as the attractiveness of innovative product offerings to consumers, or the advantageousness of the new tools compared to current practice. Other factors like consumers' willingness to share their data with the insurers but also the quality and accuracy of the data, are also expected to play a significant role.</p>	
		<p>2.15. Eiopa encouraged a stakeholder dialogue about ethical practices in insurance; Eiopa's stakeholder group on digital ethics in insurance produced a report on AI governance principles in 2021, which, among other things, encouraged insurance firms to avoid the use of certain types of price optimisation practices such as those aiming to maximise consumers' "willingness to pay".</p>	
37	Deutsche Aktuarvereinigung e.V.	<p>This statement from Eiopa's stakeholder group contradicts the principle of setting prices freely and independently. Any kind of restriction to price setting leads to restrictions in market competition. This will likely result in adverse developments for customers in general, for example an increasing price level due to reduced competition. This does however not mean that prices need necessarily to increase for all customers, as there might be specific customer groups that still experience a price decrease.</p>	<p>Thank you for your comment. The clarifications provided by Supervisory Statement do not aim at interfering with business decisions and/or pricing. They are rather intended to ensure that the processes followed by insurance manufacturers in the product design and pricing phases are sufficiently customer-centric, balancing the interests of the target market with the interests of the insurance manufacturer. Those products using specific differential pricing practices for which from the product testing – as part of the product design process – results that they are not aligned with the target market's needs, objectives and characteristics should not be brought to the market.</p>
38	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Solche gut gemeinten Appelle an die Versicherungsindustrie werden in dem intensiven Wettbewerb vermutlich weitgehend ungehört verhallen. Solange einzelne Anbieter sich hierdurch einen Wettbewerbsvorteil versprechen, ist es sehr wahrscheinlich, dass auch Verfahren zur Preisoptimierung eingesetzt werden. Insofern ist</p>	<p>Thank you for your comment. With the Supervisory Statement Eiopa seeks to go one step further than the publication of the report from the Expert Group. The Supervisory Statement aims to highlight which are the</p>

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		die Bereitschaft der (nationalen) Aufsicht entscheidend, die Einhaltung dieser Prinzipien auch zu gewährleisten.	supervisory expectations in this area, promote supervisory convergence and ensure the fair treatment of consumers.
39	MACIF	The aim for Macif is to meet the needs of its customers. We do not seek to maximize consumers' willingness to pay. However it is important to stress that companies have to manage their insurance portfolio as a whole and over a multiyear horizon. It is therefore the legitimate interest of the company to attract and retain policyholders that it deems are likely to contribute positively to the company's profitability without it being differential pricing per se.	Thank you for your comment. As previously mentioned, underwriting risk-based pricing practices are out of the scope of the Supervisory Statement. The Supervisory Statement does not prevent the use of differential pricing practices by insurance manufacturers, although it highlights that some of these practices raise significant supervisory concerns taking into account existing regulatory requirements.
		2.16. In EIOPA's 2021 Consumer Trends Report, 13, out of 24 competent authorities which responded to the questionnaire, reported having observed (in some case it was based on anecdotal evidence) differential pricing practices in their market, especially in motor liability insurance (59% of the cases) and household insurance (29% of the cases). The Consumer Trends Report also incorporated the findings of a consumer research study sponsored by EIOPA, which showed that over 76% of the consumers interviewed experienced a premium increase for at least one of their insurance products after one year, where only 18% of the consumers linked such increases to a change in their personal situation (e.g. change of coverage or having an accident).	
40	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Diese Ergebnisse sind nicht überraschend und dürften in dieser Form auch für den dt. Versicherungsmarkt, insbesondere für die Kfz-Versicherung, gelten.	Noted. Thank you for your comment.
41	MACIF	We cast a doubt on the usefulness of such subjective metrics. We cannot comment on our competitor's practices. However premium increases can happen in response to factors that are not immediately perceived by policyholders as related to their personal situation, but are nonetheless affecting the cost of risk as a whole. This is the case, for instance, of the inflation rate of repair parts of vehicles that has grown over years now. As part of their underwriting strategy,	Noted. Thank you for your comment. While the reference to the consumer research has been removed in the reviewed Supervisory Statement, EIOPA agrees that the increases in premiums experienced by consumers in the study could also be explained by other reasons not related to

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		<p>insurance companies may have opted to not fully transmit these increases to their policyholders or may have decided to postpone it. While the individuals may not have changed their car nor experienced claims, it is still the case that insurance companies have to compensate for the increasing cost of risk. While we illustrated this aspect for Motor insurance, it is applicable to any coverage and with the current overall increase of inflation, is even more likely to happen in the future. A new policyholder may have knowingly benefited from a commercial discount. The rates' increases cannot therefore be systematically associated with differential pricing. Current regulations are effective. And in cases where a question of insurability arises, there are mechanisms to find coverage. For travel or pet insurance, for example, there is no obligation to take out coverage.</p>	<p>differential pricing practices, such as increases in costs incurred by the insurer (e.g. inflation).</p>
		<p>2.17. While the present Supervisory Statement focuses on non-risk differential pricing practices, several of the above-mentioned reports and publications also assessed the topic of risk-based pricing practices and data bias. EIOPA is aware that risk-based pricing techniques, when relying on inaccurate data and/or when leading to too granular pricing, can also be a source of consumer detriment and financial exclusion if not accompanied by adequate governance measures; EIOPA will further assess the topic of biased datasets and their impact on financial inclusion and issue supervisory guidance and measures if needed.</p>	
42	<p>Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung</p>	<p>Es ist seit längerer Zeit zu beobachten, dass es im Rahmen der Tarifierung zu einer immer weiterreichenden Individualisierung bzw. Atomisierung kommt. Dies ist auf der einen Seite nachvollziehbar, da sich die Versicherer durch eine bessere Risikoeinschätzung einen Wettbewerbsvorteil erhoffen, indem es zu einer Positivselektion im Bestand kommt (vgl. 2.14). Allerdings führt dies auf der anderen Seite auch zu immer weiter steigenden Prämien für Verbraucher mit einem erhöhten Risiko, z.B. ältere Fahrer in der Kfz-Versicherung. Hier ist letztlich die Frage, inwieweit dies gesellschaftlich akzeptiert ist und ob es ggf. einer Einschränkung in der Freiheit der Preissetzung bedarf. Denn in anderen Fällen, z.B. besonders risikoreiche Berufsgruppen wie Dachdeckern, führt dies teilweise zur</p>	<p>Thank you for your comment. EIOPA notes the considerations and concerns you raise with regards to too much individualisation of premiums. While, this can bring benefits it is important that the principles of mutualisation remains. Moreover, it is important that individualisation is based on underwriting risk factors and that people with certain characteristics – e.g., low propensity to shop around are not unfairly treated.</p>

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>Unversicherbarkeit in der Berufsunfähigkeitsversicherung, die allerdings nicht zur Schaden-/Unfallversicherung zählt. Insofern ist der hier angesprochene Bias in den Daten sicherlich relevant, aber aus unserer Sicht ist die grundsätzliche Fragen eher, bis zu welchem Grad eine Individualisierung der Versicherungsprämie gewünscht und zulässig ist.</p>	
43	MACIF	<p>MACIF believes that improvements in risk assessment offer a clear benefit to consumers in that it can lead to more accurate pricing of the risk and in turn provide increasingly affordable products for many consumers. We acknowledge that in some circumstances, more accurate pricing could result in an increase in risk segmentation, which may render insurance more expensive for some consumers. However, so far there is little sign that insurance might become unaffordable for certain groups of customers, and insurers have every incentive to offer attractive insurance products for all segments of the population.</p> <p>We agree that more granular pricing could potentially be a source of consumer detriment and financial exclusion, but we observe that the current legal and governance framework in place at European level adequately alleviates this risk. We believe that big data has a high potential to increase the offerings available to consumers by allowing more micro-segmented, focused and reliable risk pricing, as well as exposing those ways in which consumers can reduce their risk to improve their premium. These developments aim at allowing companies to offer innovative products to specific market sectors to fill niche requirements expanding the range of policies and also the ability of consumers to tailor these policies to their individual requirements.</p>	<p>Thank you for your comment. EIOPA agrees that more personalized underwriting risk-based pricing can be beneficial for consumers, and in some cases promote financial inclusion. With this paragraph EIOPA wanted to emphasize that underwriting risk-based pricing can also raises relevant issues that may deserve supervisory attention in the future.</p>
		<p>2.18. For the purpose of the present Supervisory Statement, differential pricing practices are understood as those pricing techniques where consumers with a similar risk and cost of service are charged for the same insurance product (with the same terms and conditions) different premiums for reasons other than risk or cost of service.</p>	

No.	Organisation name	Response to the public consultation question	EIOPA's comments
44	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Letztlich geht es nach unserem Verständnis darum, die fehlende Preissensitivität und Trägheit der Verbraucher dahingehend auszunutzen, letztlich eine höhere Prämie durchsetzen zu können, als es für die Deckung des individuell erwarteten Schadenaufwands zzgl. Verwaltungs- und Vertriebskosten erforderlich ist. Hierbei spielen auf Verbraucherseite sicherlich auch die mit einem Versichererwechsel verbundenen Opportunitätskosten, insb. für Information, eine nicht unwesentliche Rolle. Daher haben wir es uns bei Finanztip zum Ziel gesetzt, diese Hürden mit unserem Informationsangebot bestmöglich zu verringern.</p>	<p>Thank you for your comment. EIOPA shares your understanding of some of the detrimental differential pricing practices which exist in the markets and also welcomes initiatives put in place to help consumers.</p>
45	MACIF	<p>On top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital. Acquisition costs, especially for mature markets with fierce competition, are often high and need to be compensated over several years of standard return. The allocated cost of capital also includes projection of lapse rate and likely detention to estimate the future stream of incomes and losses.</p> <p>Additionally within a given product, some profiles may exhibit steep risk evolution such as that of young drivers. The full “cost of risk” is not charged to young drivers (and thus mutualized with older, less risky profiles) in the hope that those young drivers will mature and turn to loyal policyholders that will in turn contribute to the stability of the system. On the other hand some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks. Here again, the full cost may not be charged to the policyholders in an attempt to retain policyholders as part of an equipment journey. All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship. While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.</p>	<p>Thank you for your comment. We have revised the statement to partially address your comment. In particular the Statement has further clarified that underwriting risk-based pricing practices, including mutualisation of risks, are out of the scope of the Supervisory Statement.</p>

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>2.19. Due to their high risk of consumer detriment, particular emphasis is put on the so-called “price walking practices”, i.e. when the premium paid by the consumer is increased at the renewal stage based on the analysis of characteristics specific to a particular consumer to predict behaviours not related to risk or cost of services, such as how much of a premium increase an individual consumer will tolerate before shopping for coverage with other product manufacturers.</p>	
46	Deutsche Aktuarvereinigung e.V.	<p>As outlined in our response to 2.14 it might well be that this kind of price differentiation is actually due to actuarial analyses. For instance, there might be a direct relationship between tenure (i.e., how long a customer stays with the insurer) and actual claims experience (e.g., having a reduced claims frequency). Therefore, we find it difficult how the line should be drawn between compliant and non-compliant “price walking practices”. Hence, it must be clearly defined by the regulatory authority to which extend which DPP is compliant with the intended supervisory statement and how to measure this.</p> <p>From an actuarial perspective it must be clearly defined which DPP is compliant with the intended supervisory statement. For this purpose, it must, among others, be clear to which extent a differentiation is acceptable and which measures would be used to determine whether a pricing (approach) is compliant or not. Therefore, a materiality concept might be used. In addition, clearly defined scopes and boundaries of DPP should be described (for example which consumers are considered vulnerable).</p> <p>Moreover, note that it is usually not possible to use the actual price for risks to evaluate whether any pricing differentiation is based on differences in the risk and/or cost structure. In general, it might be even possible that a certain differentiation is solely due to deviances in the portfolio structure used for price evaluation.</p> <p>Finally, any kind of restriction with regards to price setting leads to restrictions in market competition. This will likely result in adverse developments for customers in general, for example an increasing</p>	<p>Thank you for your comment. EIOPA notes your consideration and would like to highlight that it aims at tackling those practices where there is no correlation with underwriting risk or cost of service aspects – i.e., tenure being seen as low propensity to around and hence possibility to charge a higher price.</p> <p>Moreover, EIOPA is not restricting and / or interfering with price setting. Rather it is looking at the process that should ensure that even when those techniques are adopted, they lead to good consumer outcomes.</p>

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>price level due to reduced competition.</p> <p>From an actuarial perspective, it is necessary to implement suitable measures to avoid the described detrimental effects within the overarching pricing process. These measures need to be documented and monitored adequately by insurers.</p>	
47	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Die ausdifferenzierten Preisanpassungsstrategien sind letztlich ein Ergebnis des zunehmenden Wettbewerbs. Die Marge im dt. Kfz-Versicherungsmarkt ist über die Jahre insgesamt vergleichsweise gering. Insofern dürfte ein Verbot solcher Strategien künftig nicht zu sinkenden Prämien führen. Vielmehr findet eine Gleichbehandlung der Kunden dahingehend statt, dass die aktiven, wechselwilligen Kunden nicht zu Lasten des Bestands mit attraktiven Prämien versehen werden. Nichtsdestotrotz sind aus unserer Sicht umfassende Informations- und Wechselmöglichkeiten für alle Kunden das übergreifende Ziel. Denn wir sind der Meinung, dass dies die Effizienz des Gesamtsystems steigert und damit die Wohlfahrt aller Kunden erhöht.</p>	<p>Thank you for your comment. EIOPA notes your considerations with regard to the benefit a ban of these practices could lead to. However, while national authorities can adopt different measures, based on the impact assessment at the European level – given the differences in markets, the legal basis, etc – a ban cannot be envisaged at this moment.</p>
48	MACIF	<p>On top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital. Acquisition costs, especially for mature markets with fierce competition, are often high and need to be compensated over several years of standard return. The allocated cost of capital also includes projection of lapse rate and likely detention to estimate the future stream of incomes and losses.</p> <p>Additionally within a given product, some profiles may exhibit steep risk evolution such as that of young drivers. The full “cost of risk” is not charged to young drivers (and thus mutualized with older, less risky profiles) in the hope that those young drivers will mature and turn to loyal policyholders that will in turn contribute to the stability of the system. On the other hand some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks. Here again, the full cost may not be charged to the policyholders in an attempt to retain policyholders as part of an</p>	<p>Thank you for your comment. We have revised the statement to partially address your comment. In particular the Statement has further clarified that while price discounts should also count with appropriate governance measures, the Supervisory Statement places the focus on the second and subsequent renewals. This would give flexibility to insurance manufacturers to attract and retain customers, and enabling the latter to benefit from shopping around for better deals at the renewal stage. The Supervisory Statement also clarifies that underwriting risk-based pricing practices, including mutualisation of underwriting risks, are out of the scope of the Supervisory Statement.</p>

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		equipment journey. All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship. While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.	
		2.20. The Supervisory Statement covers the activities of insurance undertakings and intermediaries (including managing general agents) that manufacture insurance products that are offered for sale to customers (jointly referred as 'manufacturers'), which are competent for determining the premium paid by a consumer of an insurance product. It also covers the activities of insurance intermediaries that do not have any influence in determining the premium paid by the consumer, but only to the extent they are made aware of such differential pricing practices, since they need to take this information into account when providing information to consumers.	
49	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Es stellt sich uns die Frage, ob die vorstehende Forderung ausreichend ist. Letztlich verstehen wir dies so, dass der Vermittler nur dann hierzu informieren muss, wenn ihm DPP bekannt sind. Dies birgt die Gefahr eines Umgehungstatbestandes, dass sich der Vermittler mit Unwissenheit herausredet. Insofern wäre zu überlegen, inwieweit man die Vermittler verpflichtet, sich proaktiv zu DPP beim Versicherer/Produktgeber zu erkundigen. Nur so ist sichergestellt, dass er entsprechende Praktiken ggü. dem Verbraucher transparent darstellen kann.	EIOPA notes your consideration. However, obliging intermediary to inquiry about the usage of differential pricing practices may be overly burdensome on intermediaries. Under POG manufacturer should report the usage of differential pricing practices who then in turn would be made aware of these practices.
50	HUK-COBURG VVaG	We agree with this opinion: Adequate product and pricing information is required as information which distributors provide to insurance customers. It is the manufacturer's responsibility to ensure this. This is already integrated in POG.	EIOPA appreciates your support and your comment.
51	MACIF	In Europe, the Insurance Distribution Directive (IDD, which went into effect on October 1, 2018) optimizes the transparency of information for the customer. For several years, the law has been strengthened to protect the retail consumer. Everything is done to enable consumers to buy the insurance products with full knowledge of the	Thank you for your comment. EIOPA is also aware of other existing EU requirements and this statement does not aim at introducing new requirements but rather it declines EU requirements envisaged under the IDD, including

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		<p>facts. There is already a cross-sectoral regulation (e.g. Directive 2005/29/EC of 11 May 2005 concerning unfair business-to-consumer practices) which prohibits misleading and aggressive practices that aim at substantially altering the economic behavior of the consumer. Exhaustive criteria are used to qualify a practice as unfair. Moreover, the existing regulation considers that the deception must be qualified with regard to a normally informed, attentive and informed consumer.</p>	<p>transparency requirements, in light of these practices.</p>
		<p>2.21. The focus is placed on the outcomes of differential pricing practices as well as on the process followed by the insurance product manufacturer to determine the price and/or price increase rather than on the price and/or the price increase itself, this is with the aim of ensuring fair treatment without interfering in the pricing of products.</p>	
52	Deutsche Aktuarvereinigung e.V.	<p>The notion of "fair" is hard to assess from an actuarial perspective and needs to be clearly defined. Without clear definition it also remains unclear, how to measure the fairness of pricing or pricing techniques.</p>	<p>Thank you for your comment. The Supervisory Statement highlights which differential pricing practices raise more supervisory concerns and provides examples of differential pricing practices which are considered to lead to unfair treatment of consumers. Nevertheless, as previously mentioned the Supervisory Statement is principle-based and offers sufficiently flexibility to insurance manufacturers to adapt the product oversight and governance measures to the nature, scale and complexity of their business model, taking into account both the process followed as well as their outcomes.</p>
53	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Aus unserer Sicht bedarf es einer klaren Regelung darüber, was im Pricing zukünftig erlaubt sein soll und was nicht. Denn nur so besteht die Möglichkeit objektiv festzustellen, ob sich die unterschiedlichen Anbieter an die Vorgaben halten oder nicht.</p> <p>So werden bereits heute die vertraglich vereinbarten Anpassungsrechte der Versicherungsprämie von einigen Anbietern tlw. großzügig ausgelegt und gehen über die vertraglichen Regelungen hinaus. Allerdings sind die jährlichen Beitragsanpassungsschreiben der Versicherer für die meisten Verbraucher heute nicht nachvollziehbar. Insofern erfordert eine</p>	<p>Thank you for your comment. EIOPA notes your view relating to the fact that clearer regulation in terms of pricing should be envisaged. However, this could also have a significant impact on the market and limit product design and pricing freedom – which in turn could limit consumer choice – an approach whereby only those practices, which are in consumers' interest, are implemented could be more beneficial.</p>

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		effektive Regulierung zu DPP eine deutliche Erhöhung der Transparenz ggü. Verbraucher und weiteren Marktteilnehmern.	
54	HUK-COBURG VVaG	We agree with this opinion: An organised price and product development process is required. This has already been considered particularly in POG and ICS.	Noted. Thank you for your support.
55	MACIF	<p>On top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital. Acquisition costs, especially for mature markets with fierce competition, are often high and need to be compensated over several years of standard return. The allocated cost of capital also includes projection of lapse rate and likely detention to estimate the future stream of incomes and losses. Additionally within a given product, some profiles may exhibit steep risk evolution such as that of young drivers. The full "cost of risk" is not charged to young drivers (and thus mutualized with older, less risky profiles) in the hope that those young drivers will mature and turn to loyal policyholders that will in turn contribute to the stability of the system. On the other hand some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks. Here again, the full cost may not be charged to the policyholders in an attempt to retain policyholders as part of an equipment journey. All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship. While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.</p>	Thank you for your comment. See answer to similar comments above.
		<p>2.22. Following a technology-neutral approach, all differential pricing practices are covered by the Supervisory Statement regardless of whether they are based on AI systems or other technologies. However, when they are based on AI systems, insurance product manufacturers should have in place additional governance and risk management measures to address the specific challenges arising from the use of this technology. In this regard, several of the high-</p>	

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		level AI governance principles developed by EIOPA's stakeholder group on digital ethics (e.g. human oversight, record keeping, transparency, fairness, proportionality etc.) are embedded, to a certain extent, in the governance processes of product manufacturers foreseen in the IDD and POG Delegated Regulation.	
56	Deutsche Aktuarvereinigung e.V.	<p>We support the above outlined technology-neutral approach. From our point of view, it is equally important that the approach is methodology-neutral. Of course, AI methods impose additional requirements on the user with regards to transparency and controllability. Nevertheless, DPP can also result from other methods not linked to AI. Therefore, if additional regulation would be deployed, the regulatory requirements on DPP should be independent of the specific methods used.</p> <p>The Actuarial Function is experienced with both price differentiation as well as regulatory governance. Therefore, the actuarial experts are well suited to play a vital role in any kind of DPP regulation and should play a central role in the linked process.</p>	Thank you for your comment. Please note that no new regulatory requirements are introduced with this statement. The Supervisory Statement seeks to clarify which are the supervisory expectations with regards to existing requirements. The Statement has also been slightly revise to highlight that that it follows a methodology neutral approach, which at the same time it provides examples of practices that raise higher supervisory concerns.
57	MACIF	<p>The concerns identified in the Supervisory Statement are not exclusively linked to the use of big data analytics but are related to the nature of the insurance business, regardless of technological developments.</p> <p>We trust that the EIOPA concerns are already adequately addressed by the existing legal European framework, which includes GDPR, PRIIPs, IDD, DMD, Gender Directive, Solvency II.</p> <p>The EU General Data Protection Regulation allows insurers and consumers to be well prepared for the big data environment. The GDPR has created a well-balanced legal framework for processing data. It provides insurers with the right level of guidance, allowing them to mitigate the potential risks brought by the use of big data.</p> <p>At the same time, consumers can now rely on strengthened and new</p>	Thank you for your comment. Indeed EIOPA is of the view the issues highlighted relate to the nature of insurance business and that existing regulatory requirements cover these practices. However, given the emergence of these practices EIOPA deemed it important to provide more guidance on the application of these requirements in light of these practices.

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		<p>rights to protect their personal data. Moreover, the GDPR addresses the fundamental issue of transparency in the use of personal data, providing a comprehensive system of information disclosure and effective protection. Additionally, under the GDPR, consumers have the right not to be subject to a decision solely based on automated processing, leaving consumers well prepared for the further development of automated decisions by insurers. Furthermore, while insurers use personal data which falls under the GDPR, a significant amount of data used in the insurance business is anonymised, and as such does not affect individuals' privacy.</p> <p>The Packaged Retail and Insurance-based Investment Products Key information documents - KID - for packaged retail and insurance-based investment products - PRIIPs - Regulation 1286/2014 of the European Parliament and of the Council, 26/11/2014) Regulation imposes the provision of a standardized disclosure format - the key information documents before a retail investor purchases a PRIIP - allowing consumers to compare the characteristics of different offers.</p> <p>The Insurance Distribution Directive IDD, 2016/97 of the European Parliament and of the Council, 20/1/2016) regulates the distribution of all types of insurance products by all types of distributors, preventing any poor selling practices that the use of big data analytics in insurance could facilitate. Moreover, its provisions on product oversight and governance (POG), along with its delegated Regulation10, regulate the design of new insurance products. These requirements aim to protect customers from an early stage in the insurance process.</p> <p>The Distance Marketing Directive for financial services DMD, Distance Marketing of Consumer Financial Services Directive 2002/65/EC of the European Parliament and of the Council, 23/9/2002) protects consumers from unsolicited products.</p> <p>The EU Gender Directive prohibits the differentiation of insurance premiums by gender.</p>	

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>The proposed e-Privacy Directive, currently under debate at EU level, will bring an additional layer of protection by guaranteeing the confidentiality of communications and shelter consumers from online tracking and unsolicited commercial communications.</p> <p>The Solvency II Directive means insurers have an effective system of governance that provides for sound and prudent management of their business (article 41). Therefore, in order to comply with prudential regulations for risk management, insurers have to base their pricing on reliable data.</p>	
		<p>2.23. The Supervisory Statement focuses only on differential pricing practices applied to retail customers, since, due to their personal and behavioural characteristics, retail customers are more likely to experience differential pricing practices than corporate clients. It also covers only non-life insurance lines of business, where the contracts typically need to be renewed on a regular basis, and where there is greater evidence of differential pricing practices taking place. The aim is to address those practices that have a higher possibility of having a detrimental impact on consumers.</p>	
58	Deutsche Aktuarvereinigung e.V.	<p>It must be clearly defined which DPP is compliant with the intended Supervisory statement. For this purpose, it must, among others, be clear to which extent a differentiation is acceptable and which measures would be used to determine whether a pricing (approach) is compliant or not. In addition, clearly defined scopes and boundaries of DPP should be described.</p>	<p>Thank you for your comment. However, it is not EIOPA's role to approve pricing techniques. POG are principles-based requirements and EIOPA is of the view that pricing techniques for which manufacturers can prove they are aligned with the target market's needs, objectives and characteristics are in line with the regulatory requirements.</p>
59	HUK-COBURG VVaG	<p>We suggest looking at individual insurance contracts within the private customer business which are open for both retail customers and non-retail customers. The principles and the need for protection are the same for retail customers and non-retail customers in this segment.</p> <p>Industrial and commercial policies should be exempt.</p>	<p>Thank you for your comment. The Supervisory Statement clarifies that, while it applies to all differential pricing practices regardless of the type of customers however, competent authorities, in view of proportionality and following a risk-based approach should focus on those practices applied to retail consumers</p>

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			(including SMEs) as they are more exposed to the risks arising from differential pricing practices
60	MACIF	<p>On top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital. Acquisition costs, especially for mature markets with fierce competition, are often high and need to be compensated over several years of standard return. The allocated cost of capital also includes projection of lapse rate and likely detention to estimate the future stream of incomes and losses.</p> <p>Additionally within a given product, some profiles may exhibit steep risk evolution such as that of young drivers. The full “cost of risk” is not charged to young drivers (and thus mutualized with older, less risky profiles) in the hope that those young drivers will mature and turn to loyal policyholders that will in turn contribute to the stability of the system. On the other hand some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks. Here again, the full cost may not be charged to the policyholders in an attempt to retain policyholders as part of an equipment journey. All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship. While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.</p>	Thank you for your comment. See response above made to the same comment.
		2.24. With the Supervisory Statement EIOPA aims to promote a convergent approach amongst competent authorities in the supervision of product oversight and governance (POG), fair treatment of consumers and disclosure requirements covered in the IDD and the POG Delegated Regulation, with the view of ensuring that consumer detriment and unfair practices are prevented. This Supervisory Statement does not aim to interfere with pricing, which manufacturers are free to set, but rather it aims to ensure that the process followed ensures that the differential practices used does not	

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		unfairly affect certain categories of consumers – e.g., more loyal customers.	
61	Deutsche Aktuarvereinigung e.V.	<p>If DPP would not be allowed, this limits the opportunity of manufacturers to set prices freely. This seems to contradict the goals outlined above.</p> <p>However, if DPP would be regulated, it must be clearly defined which DPP are compliant with the intended Supervisory statement. Moreover, it is necessary to implement suitable measures to avoid detrimental effects within the overarching pricing process. Furthermore, these measures need to be documented and monitored by insurers adequately.</p> <p>The Actuarial Function is experienced with both price differentiation as well as regulatory governance. Therefore, the actuarial experts are well suited to play a vital role in any kind of DPP regulation and should play a central role in this process.</p>	Thank you for your comment. See answer to a similar comment raising similar issues.
62	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Zur Vermeidung der negativen Folgen von DPP wird man über bestimmte Eingriffe in die freie Preisgestaltung der Anbieter nicht umhinkommen. Denn das Ergebnis dieser freien Preisgestaltung ist ja gerade die Tatsache, dass es bereits zu solchen Effekten gekommen ist. In diesem Zusammenhang muss die Regulierung auch hinreichend klar und eindeutig sein, damit es nicht umgangen werden kann.</p> <p>So ist die Verwendung jährlicher Tarifgenerationen im dt. Kfz-Markt weit verbreitet. Dies bedeutet, dass die meisten Kfz-Versicherer jährlich eine neue Tarifgeneration auf den Markt bringen. Damit kann man im Zweifel argumentieren, dass die Prämie eines Neukunden (mit der aktuellen Tarifgeneration) nicht direkt mit der Prämie eines Bestandskunden (vorherige oder noch ältere Tarifgeneration) vergleichbar ist. Denn formal liegen den unterschiedlichen Tarifgenerationen i.d.R. auch ein abweichender Leistungsumfang zugrunde, die dann zur Rechtfertigung von etwaigen Preisunterschieden dienen. Allerdings sind die Leistungsunterschiede</p>	EIOPA notes your concern and your view that further interventions are required. However, based on the impact assessment, and taking into account existing regulations, the banning of practices is not the appropriate regulatory option at this stage.

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		<p>oftmals vergleichsweise gering; vgl. Ausführungen zu 2.5.</p> <p>Inwieweit dazu zusätzliche Dokumentationsanforderungen im Rahmen der POG-Regulierung ausreichen, erscheint zumindest zweifelhaft.</p>	
63	HUK-COBURG VVaG	We agree with this opinion.	Thank you for your comment.
64	MACIF	<p>We appreciate that Eiopa recognises that manufacturers are free to set their pricing. With regard to implementation of IDD and POG Delegated Regulation, it is fair to acknowledge that since the IDD entered into force in October 2018, the overall impact of the Directive has been positive.</p> <p>There are several reasons for this success: The IDD has worked within existing distribution systems and has effectively professionalized insurance distribution while providing for additional transparency for instance regarding conflict of interest (Art. 28 and the provisions of articles 19, 19.2 19.3 19;4 and 19.5; the provisions of articles 28.2 and 28.3), information to be delivered by distributors (Art. 19, the provisions of articles 24.1 and 24.2, Art. 29) and the nature of their remuneration (Art. 19.1.d). This has a knock-on effect on end consumers who benefit not only from the specific consumer protection rules but also the increased oversight of the distribution process and the increased knowledge and accountability of distributors themselves.</p> <p>The same can be said for the IDD product oversight and governance (POG) rules which are a strong consumer protection tool and are crucial in ensuring that customers have access to high-quality products that fit their needs. For non-advised sales, they are particularly useful for insurance-based investment products (IBIPs), where ongoing monitoring is key to evaluating the continued value of the product, and a clearly defined target market is beneficial in ensuring high-quality product design. However, in markets with a compulsory suitability test, the relevance of a granular target market has not been fully proven since the suitability test takes into account all the characteristics of the customer at the time of subscription and allows the contract to be adapted (differentiated) to meet the</p>	Thank you for your comment. Eiopa notes your view that the requirements have had a positive effect. It is important to highlight target market definition and suitability assessment are two different requirements with different objectives.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		customer's evolving personal needs and changing circumstances - Source: Insurance Europe Response to the EIOPA survey on the application of the Insurance Distribution Directive, 05.02.2021.	
		2.25. In particular, the Supervisory Statement highlights key aspects which competent authorities should look at when supervising said requirements in the context of differential pricing practices. The aspects highlighted and included in this Supervisory Statement do not constitute new requirements, and is designed to assist competent authorities in supervising manufacturers and distributors in the implementation of said requirements.	
65	Deutsche Aktuarvereinigung e.V.	<p>Additional to the previous comments on 2.24, for all regulatory actions which could be taken, the principle of proportionality should be applied. This means to have an adequate and reasonable relationship between such regulatory actions including their expected outcome and the related effort to implement them.</p> <p>The supervisory authority should also take into account to align additional regulatory requirements with existing governance structures of the manufacturers as well as to avoid any conflicts of interest. The already existing Actuarial Function seems to be well equipped to address any DPP requirements if entrusted with it.</p>	Thank you for your comment. The Supervisory Statement indeed follows a risk-based approach; while it is applicable to all differential pricing practices, it highlights those that raises significant concerns from a supervisory perspective. Moreover, the statement does not add any new regulatory requirements rather it provides a view of how current requirements apply to DPP.
66	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Aus der Erfahrung der Vergangenheit glauben wir, dass sich das Verhalten der Anbieter nur dann nachhaltig ändern wird, wenn die Anforderungen klar formuliert sind, so dass auch für Außenstehende die Einhaltung dieser Regeln nachvollzogen werden kann. Dies bezieht sich explizit nicht nur auf den individuellen Verbraucher, sondern auch auf andere Marktteilnehmer. Vielmehr hat in anderen Branchen die Existenz einer expliziten „Abmahnindustrie“ zu Veränderungen geführt.</p> <p>Auf Verbraucherebene können wir uns vorstellen, dass vergünstigte Neukundenangebote zukünftig weiterhin möglich sein können, solange diese zumindest explizit als solche gekennzeichnet werden. So könnten solche „Einstiegsangebote“ mit einem expliziten Neukundenbonus versehen werden, wie es bspw. bereits heute bei</p>	Thank you for your comment. EIOPA carefully considered your views and holds the view that the current statement is a sufficient warning to the industry. EIOPA will carefully monitor the implementation of the statement and national competent authorities can take further measures as needed.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		Stromtarifen der Fall ist. Dann ist dem Verbraucher zumindest transparent, dass er sich in den folgenden Jahren auf entsprechend steigende Preise einstellen muss.	
67	HUK-COBURG VVaG	We agree with this opinion.	Thank you for your comment.
68	MACIF	We agree and we already comply with the rules in force. It is important to continue to operate without adding new constraints that could prove counterproductive, for example by limiting the ability to pursue mutualization in favor of different risks (motor, home, health, etc.).	EIOPA notes the concerns and would like to highlight that the Supervisory Statement does not prevent mutualisation when this is based on underwriting risk-factors.
		2.26. The Supervisory Statement is also aimed at ensuring the fair treatment of consumers by – in line with Article 6.2 of the POG Delegated Regulation – preventing insurance manufacturers from bringing to the market products for which, as a result of the product testing, there is evidence that, because of differential pricing practices, they result in consumer detriment. Therefore the clarifications provided in the Supervisory Statement do not aim to interfere with business decisions and/or pricing, they are rather intended to assess whether the process followed by insurance product manufacturers in the product design and pricing are sufficiently customer-centric, balancing the interests of the target market with the interests of the manufacturer.	
69	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Siehe 2.25	Thank you for your comment.
70	HUK-COBURG VVaG	We agree with this opinion.	Thank you for your comment.
71	MACIF	MACIF agrees and complies with the POG rules in force.	Thank you for your comment.
		3.1. Article 17(1) of the IDD sets out that insurance distributors shall always act honestly, fairly and professionally in accordance with the best interests of their customers.	
72	MACIF	MACIF agrees and complies with the IDD rules in force.	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		3.2 Article 20(1) of the IDD states that insurance distributors shall provide customers with objective information about the product in a comprehensible format allowing them to make informed decisions.	
73	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Bisher gibt es im Rahmen der obligatorischen Produktinformationsblätter keinen expliziten Hinweis bzgl. der zukünftigen Beitragsentwicklung. Insofern fänden wir es aus Verbrauchersicht hilfreich, wenn hierzu ein entsprechender Hinweis aufzunehmen ist, wie sich die künftigen Beiträge entwickeln und wovon dies konkret abhängt. Auch wenn man ex-ante keine konkreten Werte bzgl. künftiger Beitragsanpassungen nennen kann, erscheint dies geeignet, den Verbraucher für diese Thematik zu sensibilisieren.</p> <p>Wenn man noch einen Schritt weitergehen möchte, könnte man die Versicherer verpflichten, dass alle Kunden mit dem jährlichen Schreiben zu Beitragsanpassung auch über den aktuellen Neugeschäftstarif informiert werden. Da dem Versicherer sämtliche Informationen vorliegen, könnte er sogar ein personalisiertes Angebot zur Verfügung stellen. Dann hat der Verbraucher eine deutlich höhere Transparenz und kann sich bewusst für oder gegen einen Wechsel in die aktuelle Tarifgeneration entscheiden.</p>	Thank you for your comment. While the Supervisory Statement does not aim at introducing new requirements, as part of the product testing requirements, EIOPA has clarified that manufacturers should also test whether consumers can easily understand the information on pricing discounts and increases at renewals.
74	MACIF	<p>For several years, the law has been strengthened to protect the retail consumer. Everything is done to ensure that the consumer chooses the products he buys with full knowledge of the facts. There is already a cross-sectoral regulation (e.g. Directive 2005/29/EC of 11 May 2005 concerning unfair business-to-consumer practices) which prohibits misleading and aggressive practices that aim at substantially altering the economic behavior of the consumer. Exhaustive criteria are used to qualify a practice as unfair. Moreover, the existing regulation considers that the deception must be qualified with regard to a normally informed, attentive and informed consumer. We already comply with the rules in force.</p>	Thank you for your comment. EIOPA is aware of existing requirements; however, it is important to ensure POG requirements are applied in light of these practices. Moreover, in relation to transparency, there are concerns that consumers are often not clearly informed of the increase at renewal when they sign the contract upfront – i.e., they are only informed at the renewal stage.
		3.3. Article 25 of the IDD and the POG Delegated Regulation set out that the product approval process has to ensure that products are aligned with the needs, objectives and characteristics of the target	

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		market and that products do not adversely affect customers, in order to prevent customer detriment.	
75	Deutsche Aktuarvereinigung e.V.	<p>The regulatory requirements for companies with regard to the product approval process should be defined in a risk-oriented approach in order to avoid undesired effects.</p> <p>Especially in smaller companies, extensive regulatory requirements would quickly lead to cost-related problems that could adversely affect customers of these companies overall. As a result, there may ultimately be a reduction in competitive activity.</p>	Thank you for your comment. This has been further clarified in the Supervisory Statement.
76	MACIF	MACIF complies with the rules in force.	Thank you for your comment.
		3.4. National insurance legislations may establish more detailed requirements directly relevant to differential pricing practices (e.g. transparency measures at renewal or limitations on premiums increases at renewals).	
77	Deutsche Aktuarvereinigung e.V.	<p>A precise clarification of the compliant DPP is necessary. It must be clearly recognisable for companies which DPP practice is compliant. For this purpose, it must be clearly defined from a regulatory perspective, which customer group is considered a vulnerable group, especially since target segments in the sense of price differentiation are usually defined multi-dimensionally and dynamically (e.g. depending on market conditions). In addition, it must be clear up to which degree differentiation is acceptable and which measure would be used to determine this degree.</p> <p>The need for clear and unambiguous regulation arises in particular as it is not possible to determine on the basis of actual prices whether a difference has come about on the basis of the forecast risk or cost structure or due to DPP. In general, it cannot even be ruled out that structure portfolio under consideration is solely responsible for an apparent differentiation. It would therefore be necessary to take the regulatory required steps to prevent any undesirable effects already in the pricing process, to document them and to have them monitored internally.</p>	Thank you for your comment. See comment above regarding EIOPA's role in defining which practices are admissible and which are not. POG requirements are principles based and insurance products' manufacturers should determine which practices lead to good consumer outcomes and which do not, taking into account the nature, scale and complexity of their business model.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		When establishing national insurance legislation more detailed, level playing field considerations should be taken into account.	
78	MACIF	<p>The IDD is a minimum harmonization directive, which means that it sets a minimum standard, but additional measures can be introduced at national level if deemed necessary. This allows the necessary flexibility to consider local market structures and consumer expectations. For example, professional training and development requirements have developed over time to meet specific local needs and as a result provide a framework that ensures insurers and intermediaries have the appropriate level of education and understanding of the market to provide a high quality service to consumers.</p> <p>Any EU-level regime should not seek to interrupt these well-functioning systems, which have been tailored to reflect the nature of each national market.</p> <p>Likewise, in some markets, local rules establish mandatory advice for which consumers would not be prepared to pay while, in others, customers are used to accessing financial services without advice but may be willing to pay for this additional service. These differences in consumer expectations need to be reflected in the application of rules at national level. Appropriate national differentiation has a direct consumer benefit. Source: Insurance Europe Response to the EIOPA survey on the application of the Insurance Distribution Directive, 05.02.2021. We already comply with the European and French rules in force.</p>	<p>Thank you for your comment. These requirements relate to POG and the supervisory statement does not introduce new requirements.</p> <p>The statement moreover is focused on the design process rather than on point of sales aspects.</p> <p>However, it has been reflected that the statement should not affect additional existing requirements present at the national level.</p>
		3.5. The EU legislative framework currently allows some differential pricing practices to take place. Indeed, product manufacturers have the freedom to give commercial, marketing or underwriting discounts to consumers in order to try to acquire or retain them in the course of a commercial transaction. They can also freely determine their market position vis-à-vis their competitors and adjust the tariff accordingly.	

No.	Organisation name	Response to the public consultation question	EIOPA's comments
79	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Diese Freiheiten sind im dt. Versicherungsmarkt teilweise durch bestehende rechtliche Vorschriften eingeschränkt.	Thank you for your comment. Indeed pricing in insurance needs to follow actuarial principles.
80	MACIF	<p>We agree with this provision. As mentioned above, while MACIF does not implement nor support differential pricing techniques, on top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital.</p> <p>Acquisition costs, especially for mature markets with fierce competition, are often high and need to be compensated over several years of standard return. The allocated cost of capital also includes projection of lapse rate and likely detention to estimate the future stream of incomes and losses. Additionally within a given product, some profiles may exhibit steep risk evolution such as that of young drivers. The full “cost of risk” is not charged to young drivers (and thus mutualized with older, less risky profiles) in the hope that those young drivers will mature and turn to loyal policyholders that will in turn contribute to the stability of the system. On the other hand some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks. Here again, the full cost may not be charged to the policyholders in an attempt to retain policyholders as part of an equipment journey.</p> <p>All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship. While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.</p>	Thank you for your comment. See answer above to the same comment.
		3.6. However, insurance manufacturers using differential pricing practices must demonstrate that they have effective POG measures throughout the entire lifecycle of the product to ensure that differential	

No.	Organisation name	Response to the public consultation question	Eiopa's comments
		pricing practices do not unfairly affect consumers within the target market of the insurance product. Indeed, price is a key feature of a product and therefore it must form part of the POG process, whereby insurance product manufacturers should assess whether the pricing technique used ensures an alignment between the target market's characteristics, needs and objectives.	
81	Deutsche Aktuarvereinigung e.V.	<p>Due to the challenging nature of demonstrating the existence of effective POG measures we highly recommend to involve actuaries in this process, due to the following reasons</p> <ul style="list-style-type: none"> - Actuaries are experts when it comes to price differentiation in insurance products. Actuaries are familiar with the modelling of risk differentiation but also with pricing methods. They know how to adequately measure and monitor price differentiation. Within the framework of pricing oversight, the actuarial function already carries out price monitoring activities. - Actuaries are governance experienced. Actuaries have many years of experience with governance processes and with the implementation of supervisory requirements. This is especially true for the actuarial function. - Actuaries offer a high level of quality and commitment through their education and training and their code of ethics. Actuaries are obliged to undergo basic and further training. This ensures a high level of professional competence. Actuaries are committed to acting with integrity and professionalism through their everyday-work. 	<p>Thank you for your comment. While Eiopa agrees with the importance of involving the actuarial function, insurance product manufacturers should define the POG process which in their views best suit their business model and leads to good consumer outcomes.</p> <p>The paragraph has also been slightly amended to reflect that all relevant functions and staff members need to be involved.</p>
82	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Der Begriff der "Fairness" scheint uns nicht ganz einfach zu greifen. Letztlich ist es nicht unwahrscheinlich, dass jeder Anbieter seine eigene Definition verwendet. Dies sorgt dann im Zweifel eher zu steigender Intransparenz. Zumal moralische Appelle aus unserer Sicht keine hinreichende Verbindlichkeit entfalten dürften, um zu einer Veränderung von etablierten Geschäftspraktiken zu führen; vgl. auch Ausführungen zu 2.9.	Thank you for your comment. Eiopa is of the view that the principle-based approach would allow each manufacturer to interpret fairness vis-à-vis their business model and the target market they are considering for the relevant product and this would turn in better outcomes. In fact, manufacturer should be able to provide the

No.	Organisation name	Response to the public consultation question	EIOPA's comments
			pricing used is fair to the target market and that it is in their interests.
83	MACIF	We do not use the techniques mentioned as part of our rating or underwriting process. Macif complies with the rules in force, which are sufficiently effective.	EIOPA notes your comment. Thank you.
		3.7. POG requirements are applicable to insurance products manufactured and or commercialized on or after 1 October 2018. They are also applicable to insurance products which have been significantly adapted on or after 1 October 2018.	
84	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Noted. Thank you for your comment.
		3.8. Notwithstanding the above, some types of differential pricing practices, and in particular the so-called "price walking" practices, where the premium paid by consumers is increased at the renewal stage based on the analysis of characteristics specific to a particular consumer to predict behaviours not related to risk or costs of service, will likely result on unfair outcomes for consumers and therefore fail to comply with the applicable legislative framework. Examples of practices that are considered to lead to unfair treatment of consumers, and therefore not compliant with Article 17(1) IDD, include the following:	
85	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Siehe 3.6	Thank you for your comment. See answer above.
86	MACIF	While Macif does not implement nor support differential pricing techniques, on top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital. Acquisition costs, especially for mature markets with fierce competition, are often high and need to be compensated over several years of standard return. The allocated cost of capital also includes projection of lapse rate and likely detention to estimate the future stream of incomes and losses. Additionally within a given product, some profiles may exhibit steep risk evolution such as that of young	Thank you for your comment. See answer above to the same comment.

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		<p>drivers. The full “cost of risk” is not charged to young drivers (and thus mutualized with older, less risky profiles) in the hope that those young drivers will mature and turn to loyal policyholders that will in turn contribute to the stability of the system. On the other hand some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks. Here again, the full cost may not be charged to the policyholders in an attempt to retain policyholders as part of an equipment journey.</p> <p>All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship. While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.</p>	
		<p>3.8.1. Increasing the price of the insurance product at renewal stage based on the customer's low propensity to shop around (low probability of churn); 3.8.2. Increasing the price of the insurance product at renewal stage based on the customer's low price elasticity (also known as “willingness to pay”); 3.8.3. Advising or nudging consumers to buy one insurance product vs. another one because of very low initial on-boarding price, which then result into sudden, unexpected and significant price increases for consumers at renewal for reasons unrelated to risk or cost of service;</p>	
87	MACIF	<p>While Macif does not implement nor support differential pricing techniques, on top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital.</p> <p>Acquisition costs, especially for mature markets with fierce competition, are often high and need to be compensated over several years of standard return. The allocated cost of capital also includes projection of lapse rate and likely detention to estimate the future stream of incomes and losses. Additionally within a given product, some profiles may exhibit steep risk evolution such as that of young</p>	Thank you for your comment. See answer to the same comment above.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>drivers. The full “cost of risk” is not charged to young drivers (and thus mutualized with older, less risky profiles) in the hope that those young drivers will mature and turn to loyal policyholders that will in turn contribute to the stability of the system. On the other hand some insurance products are intrinsically unbalanced like household insurance that are exposed to increasing risks. Here again, the full cost may not be charged to the policyholders in an attempt to retain policyholders as part of an equipment journey.</p> <p>All of this leads to the fact that insurance companies have to manage their portfolio of policyholders as a whole, meaning, taking into account all the products they own, or are likely to own, during a multiyear relationship. While not being dynamic pricing per se, insurance companies hence have to reward their loyal customers and attract profiles that through their overall detention will positively contribute to the solvency of the said companies.</p>	
		<p>3.9. Differential pricing practices described in the previous subparagraphs would lead to unfair treatment of consumers, since these practices would unfairly penalise loyal customers, also taking into account that vulnerable groups (e.g. older customers, low level of education, low income) are likely to be disproportionately negatively affected by these practices; insurance manufacturers using such practices would struggle to justify that they have undertaken an adequate balancing of interests in order to develop adequate governance processes and procedures to mitigate consumer detriment in situations arising from price walking practices.</p>	
88	Deutsche Aktuarvereinigung e.V.	<p>The determination of a price for business policy reasons must in principle be possible even without reference to risk and costs. Restrictions of this freedom will lead to restricted competition and thus to disadvantages for consumers. This is especially true since the principle of equal treatment no longer applies in the P&C sectors.</p> <p>Examples are:</p> <ul style="list-style-type: none"> - a price reduction for a policy due to a positive development, which 	<p>Thank you for your comment. The examples in the previous paragraph have been revised to reflect the practice needs to be regular and not just one off. Moreover, EIOPA does not agree that this would limit products which promote better ESG behaviours as differences in prices would be justified by particular services and underwriting risk characteristics.</p>

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>may be preferable from an economical point of view compared to the acquisition of a new business policy, taking into account e.g. commissions,</p> <p>- or a pricing depending on an expected retention period in the portfolio, which may be taken into account by lower prices with an increasing retention period.</p> <p>The latter shows that customers with a rather short length of stay could not receive lower prices in every case.</p> <p>Less freedom in price determination in the aforementioned sense could also make certain product and price designs more difficult, which aim at sustainability or sustainable customer behavior in respect of ESG. Such pricing would have no or less connection to risk and costs (keyword: impact underwriting) and could be prohibited by DPP regulation.</p>	
89	MACIF	We do not use the techniques mentioned as part of our rating or underwriting process. Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment. EIOPA notes your comment.
		3.10. The requirements included in the Insurance Distribution Directive to ensure that consumers are treated honestly, fairly and professionally in accordance with their best interest are aligned with other efforts of the European Union legislation to promote a fair treatment of consumers. This is notably the case of the Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market...	
90	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment, please note no new rules are introduced but rather guidance to national competent authorities on how these rules should be applied in light of these practices.
		3.11. In line with the POG requirements, manufacturers should put in place an approval process which ensures that consumers' interests	

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		are taken account in the product design and approval process and that it is also proportional to the complexity of the product design.	
91	Deutsche Aktuarvereinigung e.V.	<p>Having the customers interest in mind requires both, skills and a certain degree of independence from profitability-goals. Actuaries are well suited candidates to deliver both as they fulfill the crucial requirements:</p> <ul style="list-style-type: none"> - Actuaries are experts when it comes to price differentiation in insurance products. Actuaries are familiar with the modelling of risk differentiation but also with pricing methods. They know how to adequately measure and monitor price differentiation. Within the framework of pricing oversight, the actuarial function already carries out price monitoring activities. - Actuaries are governance experienced. Actuaries have many years of experience with governance processes and with the implementation of supervisory requirements. This is especially true for the actuarial function. - Actuaries offer a high level of quality and commitment through their education and training and their code of ethics. Actuaries are obliged to undergo basic and further training. This ensures a high level of professional competence. Actuaries are committed to acting with integrity and professionalism through their everyday-work. <p>Since it is not possible to determine on the basis of the actual prices whether a difference has come about on the basis of the forecast risk or cost structure, it is therefore necessary to take suitable steps to prevent any undesirable effects already in the pricing process, to document these and also to have them monitored internally.</p> <p>We propose to extend the competences and responsibilities of the actuarial function within the framework of pricing oversight to the topic of DPP. To this end, the actuarial function should be involved in the product development and pricing process earlier and in greater detail than now.</p>	Thank you for your comment see answer above to a similar comment. It has also been clarified that different functions may need to be involved.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>In addition, we deem it necessary that the requirements for companies should be risk-adjusted in order to avoid undesired effects. This would affect the required processes and especially the documentation requirements. Especially in smaller companies, extensive regulatory requirements can quickly lead to cost-related problems that could disadvantage the policyholders of these companies overall. As a result, there may ultimately be a reduction in competitive activity.</p>	
92	MACIF	<p>Macif complies with the rules in force, which are sufficiently effective.</p>	Thank you for your comment.
		<p>3.12. The final approval of product design relying on differential pricing practices should be at a hierarchical level which is sufficiently high to assume the risks and responsibilities, avoiding risks relating to unfair treatment, which could result from differential pricing practices.</p>	
93	Deutsche Aktuarvereinigung e.V.	<p>We see actuaries as sufficiently qualified to support decision-makers in their insurance manufacturers with the needed basis for decision-making (see answers to question 3.11).</p>	Thank you for your comment. See comment above.
94	MACIF	<p>We do not use the techniques mentioned as part of our rating or underwriting process. Macif complies with the rules in force, which are sufficiently effective.</p>	Thank you for your comment.
		<p>3.13. Adequate measures should be in place to ensure the identification, prevention and mitigation – throughout all the stages of the product lifecycle – of the main drivers of conduct risk, actual or prospective, which can emerge from differential pricing practices. Such measures should be defined by manufacturers as part of their product development and product testing process; some examples of measures include: defining appropriate thresholds / guardrails for differences in premium for consumers with a similar risk profile and cost of service; ensuring that information provided to consumers, including marketing communications, are transparent (e.g. about the existence of a premium discount only on the first year(s) or month(s) of the contract), clear, simple and not misleading so as to enable consumers to make informed decisions; in case of the use of AI systems, insurance manufacturers should be able to provide</p>	

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		appropriate explanations on the impact of AI on pricing, adapted to the needs of different stakeholders (e.g. consumers, distributors, supervisors, etc.), and set up other relevant governance measures such as adequate levels of staff oversight throughout the life cycle of an AI system; closely monitoring and mitigating the impact of differential pricing practices on consumers, particularly in relation to vulnerable groups as well as different consumers groups belonging to the same target market; making reasonable efforts to ensure that the datasets used for differential pricing practices and the outcomes of AI systems are free of bias.	
95	Deutsche Aktuarvereinigung e.V.	Through their training and tasks in technical pricing, we see actuaries as a good fit to perform those tasks, especially when it comes to the usage of AI. Actuaries are already used to perform calculation within a given regulatory framework in the insurance industry. In addition, we deem it necessary that the requirements for companies should be risk-adjusted in order to avoid undesired effects.	See comment above. The paragraph has also been revised to reflect all relevant functions should be involved.
96	MACIF	We do not use the techniques mentioned as part of our rating or underwriting process. The current supervision mechanism is already effective enough in terms of ability to switch insurers, freedom of choice, transparency, fair pricing... (see answer 2.1). Macif complies with the rules in force, which are sufficiently effective. You can observe that the fact of introducing into the tariffs elements other than the pure cost of the risk and the management costs is constitutive of the functioning of insurance, which mutualizes the risks. Over regulating would be counterproductive. Not to mention the risks of harming free and healthy competition between players for the benefit of customers.	Thank you for your comment. Please note that this statement does not introduce new requirements and also the practices targeted by this statement do not relate to mutualisation aspects.
		3.14. Processes and procedures should ensure the level of granularity of the target market takes into account the target market's characteristics which are relevant to all the products' features – including pricing discounts and increases not linked to the risk profile or the cost of service of the customer.	
97	MACIF	Macif complies with the rules in force, which are sufficiently effective. You can observe that the fact of introducing into the tariffs elements other than the pure cost of the risk and the management costs is constitutive of the functioning of insurance, which mutualizes the	Thank you for your comment. See above.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		risks. Over regulating would be counterproductive. Not to mention the risks of harming free and healthy competition between players for the benefit of customers.	
		3.15. The product design process should ensure that the objectives, interests, and characteristics of the target market, including vulnerable consumers (e.g. older customers, low level of education, low income), are taken into account when assessing whether differential pricing practices for a certain product are compatible with the target market. Importantly, this assessment should take into account that consumers might not be aware of the existence of differential pricing practices, and that the capacity of insurance manufacturers to determine their propensity to switch and price elasticity of consumers at individual level will likely confer them a disproportionate information advantage via- à-vis consumers.	
98	Deutsche Aktuarvereinigung e.V.	Regulatory requirements regarding the product design process should be proportionate to the related risk. Especially in smaller companies, extensive regulatory requirements can quickly create cost-related problems that could disadvantage the policyholders of these companies as a whole. As a result, there may ultimately be a reduction in competitive activity.	Thank you for your comment. It has been clarified it should be proportional to the business model.
99	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	In der Tat sehen auch wir hier aktuell eine deutliche Informationsasymmetrie zwischen Verbraucher und Versicherer. Insofern ist es unser Anliegen bei Finanztip, einen Beitrag zu leisten, dass sich die Kunden den DPP zumindest bewusst sind. Denn nur mit dem Wissen darüber kann der Verbraucher sein Verhalten entsprechend darauf ausrichten. Insofern sollten alle regulatorischen Maßnahmen ebenfalls darauf ausgerichtet sein, dass diese Informationsasymmetrie verringert bzw. abgebaut wird.	EIOPA notes and welcomes the initiatives you put in place. The supervisory statement provides further guidance on how to increase transparency.
100	MACIF	We do not use the techniques mentioned as part of our rating or underwriting process. Macif complies with the rules in force, which are sufficiently effective. You can observe that the fact of introducing into the tariffs elements other than the pure cost of the risk and the management costs is constitutive of the functioning of insurance, which mutualizes the risks and therefore protects vulnerable	Thank you for your comment. See answer above to a similar comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		consumers (e.g. older customers, low level of education, low income).	
		3.16. The staff involved in designing and manufacturing insurance products should have sufficient and adequate professional and educational skills to perform their function and to understand pricing techniques. Adequate levels of human oversight are particularly important when differential pricing practices rely on AI systems.	
101	Deutsche Aktuarvereinigung e.V.	<p>Actuaries are well-suited to bring the necessary background and skills – esp. also when using AI. Actuaries are experts when it comes to price differentiation in insurance products.</p> <p>In particular, Actuaries are familiar with the modelling of risk differentiation, but also with pricing methods and know how to adequately measure and monitor price differentiation.</p> <p>Actuaries offer a high level of quality and commitment through their education and training and their professional code of conduct.</p> <p>Actuaries are obliged to apply for a permanent training to maintain and improve their technical skills and their actuarial knowledge. This ensures a high level of professional competence. With their code of conduct, actuaries have committed themselves to acting with integrity and in a professional manner.</p> <p>In addition to the aforementioned educational and professional skills, within the framework of pricing oversight, the actuarial function already carries out price monitoring activities.</p> <p>Note: DPP-regulation should be method-independent. DPP can also occur completely without the use of AI methods. However, AI methods do indeed impose some additional requirements on the respective user in terms of transparency and controllability. Regarding DPP, however, the regulatory requirements should be formulated in a generally valid manner, independent of the methods used.</p>	Thank you for your comment. See answer above to a similar comment. The paragraph has also been slightly amended to reflect the comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
102	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Noted. Thank you for your comment.
		3.17. The product testing process should ensure that pricing processes and procedures are sufficiently customer centric and entails a balancing of interests between consumers within the same target market and also between the interests of the target market and of the insurance product manufacturer.	
103	MACIF	Macif complies with the rules in force, which are sufficiently effective. For several years, the law has been strengthened to protect the retail consumer. Everything is done to ensure that the consumer chooses the products he buys with full knowledge of the facts (see answer 2.1).	Noted. Thank you for your comment.
		3.18. For non-life insurance products, which are likely to be renewed on a yearly basis and/or for which the manufacturer bases the pricing process on the fact that a certain portion of the target market would likely renew, processes and procedures should ensure the product testing methods fully consider how they are aligned with the needs, objectives and characteristics of the target market not only for the first year/term but also at renewal.	
104	MACIF	<p>Ensuring that there is no pricing abuse or that tariff does not harm the consumer is the ability to change insurers easily.</p> <p>Which is the case, for example in France. The No. 2014-344 French Law of March 17, 2014 on consumer affairs, known as Hamon law, has been in force since 2015. It allows policyholders to terminate their insurance contract whenever they want after 1 year of membership, without being exposed to penalties. The No. 2005-67 of January 28, 2005 French law to strengthen consumer confidence and protection, known as Chatel law, came into force in January 2008. It forces insurers to inform their clients of the approaching anniversary of their contract. Policyholders can therefore request cancellation before the tacit renewal of their contract, if they wish to change it.</p> <p>This means that fragile citizens as well as any consumer can switch and take advantage of the competition.</p>	Thank you for your comment. However, some consumers – either because of digital literacy level, loyalty or low propensity to shop around may not easily switch provider. The Supervisory Statement states it does not affect existing national requirements.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		3.19. In particular, processes and procedures should ensure that manufacturers test whether such products are aligned with the characteristics, objectives and needs of the target market – i.e., offer value – for a reasonable time, whereby reasonableness should take into account for how long the target market is likely to hold such product and the specific characteristic of the product.	
105	MACIF	Insurance, with its inverted production cycle, operates over a long period of time. If the mutualisation mechanisms were to disappear (to get closer to an Anglo-Saxon model), the premiums for many products would undoubtedly rise sharply and many customers would no longer be able to insure themselves... while insurers could be requested to contribute "as a second layer" via the guarantee funds.	Thank you for your comment. Indeed, this paragraph reflects the need to take into account a long-term perspective.
		3.20. If, based on the product testing, it becomes evident that certain features may adversely impact some consumers' belonging to the target market because of their characteristics, processes and procedures should ensure the product should either not be brought to the market, in line with Article 6.2 of the POG Delegated Regulation or the target market should be sufficiently reviewed to exclude those consumers' categories within the target market which could be adversely impacted.	
106	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.21. Insurance product manufacturers' processes and procedures should ensure that products relying on differential pricing techniques continue to be monitored, including with the use of relevant metrics, to identify any adverse impact they may have on consumers.	
107	Deutsche Aktuarvereinigung e.V.	As experts for product monitoring and statistics, we recommend to involve actuaries in monitoring differential pricing techniques and for defining metrics to identify adverse impacts that may be detrimental for the customers. Due to the knowledge of actuaries in modelling risk differentiation and in the methods of pricing, as well as due to the high level of professional expertise, which is ensured by the obligation of continuous training, actuaries are very well suited for a	Thank you for your comment. It has been clarified all relevant functions should be involved.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		comprehensive monitoring of the differential pricing techniques and of measuring a potential adverse impact.	
108	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.22. In particular, they should identify and monitor whether some consumers within the target market, including vulnerable groups, are adversely impacted by these pricing techniques over the years and take appropriate remedial measures to cease the detriment.	
109	Deutsche Aktuarvereinigung e.V.	<p>The regulatory requirements for the process of identifying client groups that are potentially disadvantaged by DPPs should be proportionate to the risk of undesired effects. In addition, it is essential in our view that a clear definition is given, which consumers are seen as vulnerable. A focus solely on age, for example, will not suffice as pointed out before.</p> <p>With regard to the already described roles and responsibilities and skills we highly recommend to involve actuaries in the identification and monitoring process (e.g. see answer to question 3.11).</p>	Thank you for your comment. EIOPA, however, does not see the need to further specify proportionality aspects into this paragraph as POG per se is proportional. Also the paragraph is broad enough to allow for proportionality.
110	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.23. Processes and procedures put in place by insurance product manufacturers to ensure that the products do not adversely affect consumers should be clearly structured and documented through adequate records.	
111	Deutsche Aktuarvereinigung e.V.	The regulatory requirements for companies should be in proportion to the related risk. This in particular affects the documentation requirements. Especially in smaller companies, extensive regulatory requirements can quickly lead to cost-related problems that could disadvantage the policyholders of these companies overall. As a result, there may ultimately be a reduction in competitive activity.	Thank you for your comment. The paragraph has been revised to include proportionality aspects.
112	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.24. Documentation and records, including when differential pricing practices rely on AI systems, should be sufficiently detailed so as to ensure accountability of insurance manufacturers with regards to differential pricing practices.	

No.	Organisation name	Response to the public consultation question	EIOPA's comments
113	Deutsche Aktuarvereinigung e.V.	We think that due to the complex nature of insurance pricing and the statistic behind it, actuaries are best suited to assure a comprehensive documentation	Thank you for your comment. The involvement of all relevant functions has been specified in many instances throughout the statement.
114	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.25. As part of the POG documentation, manufacturers should provide to insurance distributors with sufficient information about the product, including, in general terms, on how the pricing of a product may work at renewal and the existence of differential pricing practices. This information would allow distributors to act in the best interest of consumers when assessing their demands and needs and to provide consumers with all relevant information to make informed decisions.	
115	Deutsche Aktuarvereinigung e.V.	See 3.23	Thank you for your comment. EIOPA does not see the need to further introduce proportionality elements.
116	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Aus unserer Sicht sollte dies als Pflicht für den Versicherer formuliert werden. Denn die vorstehende Aussage verstehen wir etwas weicher, dass er dies zwar tun sollte, aber nicht zwingend tun muss.	Thank you for your comment. The statement does not introduce new requirements; however, it declines existing requirements in light of differential pricing practices. EIOPA holds the view that manufacturers are already required to provide all the relevant information to insurance distributors.
117	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.26. When providing advice and/or selling products which rely on differential pricing practices, insurance distributors should provide fair and transparent information on renewals and price increases. Explanations should be meaningful and easy to understand in order to help consumers make informed decisions.	
118	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Wie in 2.20 ausgeführt, sollten die Vermittler dazu verpflichtet werden, das Thema DPP aktiv beim Versicherer anzufragen. Andernfalls sehen wir die Gefahr, dass sich der Vermittler mit Unwissenheit herausreden kann.	See our answers above.
119	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		3.27. Following a risk-based approach, competent authorities are expected to supervise that differential pricing practices do not lead to consumers' unfair treatment. For this, competent authorities should carry out market monitoring activities to identify those products for which differential pricing practices are used and for which they believe the highest risks for consumers exist.	
120	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.28. Competent authorities should engage with relevant insurance product manufacturers and review the POG processes as well as the sales process and marketing material of those products for which differential pricing practices techniques are used and that were detected as part of their risk-based supervision. For this purpose they may use different tools, including: off-site supervision; on-site inspections; thematic reviews.	
121	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.29. In their supervisory activity, competent authorities' should ensure to cover the following aspects in their assessment: evaluation of the POG documentation and governance aspects, including the systems and controls of differential pricing tools and techniques used and the process followed for products which rely on differential pricing practices; the sales process as well as relevant marketing and communication material relating to products for which differential pricing practices are used.	
122	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.30. If a competent authority establishes that a manufacturer's POG process is not adequate and/or that products relying on these practices have been marketed despite them not being aligned with the target market's needs, objectives and characteristics, they should action as they deem appropriate.	
123	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.31. If a competent authority establishes that the sales process and / or the marketing material do not ensure that fair and clear information are provided, enabling consumers to make informed decisions, they should assess the case and take actions, as appropriate.	

No.	Organisation name	Response to the public consultation question	EIOPA's comments
124	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.
		3.31. Competent authorities are encouraged to cooperate with market competition authorities in their respective jurisdictions given that differential pricing practices and consumer protection issues arising therein are closely connected to market competition.	
125	MACIF	Macif complies with the rules in force, which are sufficiently effective.	Thank you for your comment.

2. Responses to the questions included in the Public Consultation

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		Q1 –Have you observed the use of differential pricing practices in the EU insurance market?	
126	BETTER FINANCE - European Federation of Investors and Financial Services Users	<p>Yes, our member reported various practices in non-life insurances where price walking or differential pricing mechanisms are used. For instance, in motor insurances, aspects that should not matter (such as frequency of usage, ownership of a garage, subscription to public transportation) are taken into account when proposing the price.</p> <p>In our view, it also stems from what data insurance companies process and what data is asked for the demand and needs test. EIOPA and national competent authorities should first distinguish between information essential for the performance of the contract (calculating the risk premium) and other data, which should be prohibited. For instance, a dental health insurance should not inquire about the number of visits to a general practitioner, or number of medical interventions (non-dental) as it is not relevant.</p> <p>BETTER FINANCE has highlighted during the work of the High-Level Forum on the Future of the Capital Markets Union the risks of open data in financial services and data sharing. Moreover, the contagion effect exacerbates the detrimental effect to consumers when one considers the amount of data in other financial sectors to which insurances come as a complement. BdV gives the example of consumer credit scores and the approximately on 680 million data sets linked to 66 million individual customers that a consumer credit scoring company uses in Germany. This type of data, shared with insurance companies, will obviously affect the market and calculation for payment protection insurances, where several “scandals” have been observed (UK, Netherlands); and the list can go on.</p> <p>EU authorities should proctor very closely the use and sharing of data, especially in the insurance sector, as it will prove much easier to monitor rather than price supervision or regulation. In essence, BETTER FINANCE links the discussion on differential pricing mechanisms to open data and free, unconstrained consent when concluding contracts with financial services providers. Close</p>	<p>Thank you for your comment proving further evidence of differential pricing practices. EIOPA also notes your concerns with regards open finance and regarding the cooperation with different authorities.</p>

No.	Organisation name	Response to the public consultation question	Eiopa's comments
		<p>cooperation with the European Commission's Directorate-General for Justice and Consumers (DG JUST) is necessary to adequately implement the provisions of the General Data Protection Regulation (GDPR), particularly the principles of purpose limitation and data minimisation (Art. 5(1)(b) and (c) GDPR), as well as the lawfulness of data processing (Art. 6(1)(b) GDPR).</p> <p>In other words, if financial services providers conclude standardised adherence contracts with consumers, where the collection and processing of data "for the performance of the contract" is included, although not necessary, it is by default an issue that paves the way for price walking or differential pricing mechanisms.</p>	
127	Insurance and Reinsurance Stakeholder Group	<p>Differential pricing has been observed in personal lines segments of a number of European markets.</p> <p>As the Supervisory Statement is focused on practices applied to retail consumers, we have not addressed commercial lines business in detail, but have made some relevant observations in Q5.</p>	Thank you for your comment.
128	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Nach unserer Wahrnehmung sind DPP auf dem dt. Versicherungsmarkt verbreitet, wenngleich es hierzu bisher keinen formalen empirischen Beleg gibt. Insbesondere im Bereich der Kfz-Versicherungen herrscht seit langem ein intensiver Wettbewerb, der durch die zusätzlichen Anbieter (InsurTechs) noch weiter verschärft wurde. Da die Leistungen der Kfz-Versicherung weitgehend deckungsgleich sind, wird der Wettbewerb überwiegend über den Preis geführt, so dass die oben genannten Praktiken bei diversen Anbietern Anwendung finden dürften. Aufgrund des Beitragsvolumens ist die Kfz-Versicherung von zentraler Bedeutung für die dt. Versicherungswirtschaft.</p>	Thank you for your comment. Eiopa agrees that competition is a key driver of differential pricing practices.
129	BIPAR	<p>Some BIPAR members have observed the use of differential pricing practices (as defined in Eiopa consultation paper, that is to say "practices whereby customers with a similar risk and cost of service are charged different premiums for reasons other than risk and cost of service") (and also called dual pricing) in their respective markets over the last months.</p> <p>In Ireland for example, as mentioned in Eiopa consultation paper, following its 2021 report on differential pricing in home and private motor insurance markets, the CBI introduced new rules to protect home and motor insurance consumers, effective from 1 July 2022, such as the price</p>	Thank you for your comment. Eiopa has further clarified in the statement that while price discounts should also count with appropriate governance measures, the Supervisory Statement places the focus

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>walking ban : as of 1 July 2022, when you renew your home or motor insurance for the second time or more, your insurer can no longer charge you more than someone who is renewing for the first time, and has a similar risk profile and cost of service to you.</p> <p>It is important to note that the CBI also explained that “that new business discounts are still available to allow consumers to seek the best prices, while ensuring that those who remain with the same insurance provider are not penalised.” https://www.centralbank.ie/news/article/press-release-end-the-loyalty-penalty-for-private-car-and-home-insurance-21-July-2021</p> <p>It is also of importance to note that the CBI analysis found that those customers who used an insurance intermediary and those who got multiple quotes before taking out their policy were less likely to renew with their current insurer.</p> <p>Lastly, EIOPA's consultation does mention a market study that was launched by the Swedish Financial Supervisory Authority, Finansinspektionen, to assess the impact on retail consumers of differential pricing practices in motor and home insurance in their jurisdiction. It is interesting to note that the Swedish FSA published their findings of this study on 1 July 2022. The Swedish FSA found that insurance premiums for home insurances were raised significantly more for loyal policyholders than for newer policyholders. The Swedish FSA concluded, based on their findings, that loyal policyholders were subject of unmotivated and unfair price increases for home insurances. As a result of the findings in the study, the Swedish FSA will take the following measures: 1/Initiate a dialogue with insurance companies to discuss pricing practices and 2/ Observe how EIOPA and other EU member states deal with the issue.</p>	<p>on the second and subsequent renewals, giving like this flexibility to insurance manufacturers to attract and retain customers, and enabling the latter to benefit from shopping around for better deals at the renewal stage.</p>
130	HUK-COBURG VVaG	<p>We limit our response to the motor insurance market in Germany as competition in this market is particularly price sensitive and there is a direct correlation between price competition and differential pricing. According to our understanding, differential pricing includes the following aspects:</p> <ul style="list-style-type: none"> • pricing in new business and premium adjustments for existing insurance policies • non-risk-based pricing 	<p>Thank you for your comment. Underwriting risk-based pricing practices are out of the scope of the Supervisory Statement. Furthermore, the Supervisory Statement</p>

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<ul style="list-style-type: none"> • pricing based on <ul style="list-style-type: none"> o legally admissible differentiation factors o ethically/socially accepted differentiation factors o legally inadmissible and/or ethically or socially non-accepted differentiation factors. <p>This clarification is important as, depending on the individual circumstances of the case, different questions and different consequences may arise. In the German motor insurance market, risk-based pricing is, in practice, partly supplemented by other pricing factors which are not or not fully risk-based. This means that differential pricing does take place. In our view the situation is as follows.</p> <p>(1) The basis of pricing in relation to new business and premium adjustments for existing insurance policies should be a fair and risk-based, that is,</p> <p>(a) applying only legally admissible and/or ethically/socially accepted differentiation criteria, and</p> <p>(b) taking into account only those criteria which differentiate in terms of cost of claims and other costs, i.e. are risk-based, and</p> <p>(c) using generally accepted actuarial principles.</p> <p>Risk-based pricing ensures the insurer's continuous capability to fulfil insurance contracts and its competitiveness. Additionally, we consider pricing on the basis of non-risk-based pricing factors (i.e. differential pricing) to be fair in individual cases, provided it is justified by a factual reason. The factual reason must be determined by weighing the interests involved against each other. For example, it may arise from the <u>application of accepted actuarial principles</u> to avoid undesired effects (such as disadvantages for the community of insured persons), <u>to maintain competitiveness, or on the basis of the law (e.g. special bonuses)</u>.</p> <p>(2) Motor insurance is subject to strong competition, especially for new business where customer contact is concentrated. The reason for this customer contact is the fact that motor third party</p>	<p>provides flexibility to insurance manufacturers to continue using differential pricing practices, although, following a risk-based approach, it also highlights which practices raise higher supervisory concerns based on the existing EU legal framework. The Supervisory Statement also notes that there might be different requirements in national law.</p>

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>liability insurance is compulsory. Motor insurance secures access to customers – also beyond motor insurance. This door-opener function is the reason why motor insurance is subject to particularly intense competition.</p> <p>(3) All insurers must be competitive with their products and tariffs, otherwise they will not be able to prevail in the market in the long run. The requirement of competitiveness applies to all insurers in the light of the level playing field. To secure the business model, direct access to customers must be protected against online gatekeepers such as comparison websites and Big Tech companies.</p> <p>(4) Competition must be fair to ensure a plurality of offers. Whether differential pricing is fair or unfair is determined by the law, e.g. dumping prices in new business are inadmissible under competition law. If there is no law (yet), the classification into fair or unfair is guided by ethical principles reflecting social acceptance, or by factual reasons. In areas not governed by legal provisions, no general judgement is possible, i.e. the affected interests must be weighed against each other. For instance, in our option (a) incentives paid out for the specific purpose of poaching customers away from selected competitors are inadmissible and unfair under aspects of competition law, whereat (b) a discount for customer loyalty is risk-based and fair.</p> <p>(5) A fully risk-based tariff is unrealistic and may well be problematic – both from the insurer's and from the customers' point.</p> <p>If only risk-oriented pricing was allowed and differential pricing was prohibited, an extremely tough competition between insurers would arise to have the best risk differentiation. To be profitable, some customer segments would have to pay significantly higher premiums, e.g. younger or older customers. Finally, the insurer with the best risk differentiation and the best cost situation will dominate the market.</p> <p>(8) The insurance business is highly regulated. Pricing is subject to various laws and rules, intended to ensure aspects such as the insurers' continuous capability to fulfil contracts, consumer protection, fair competition and transparency, e.g. the solvency framework or competition and</p>	

No.	Organisation name	Response to the public consultation question	Eiopa's comments
		<p>anti-trust provision to name a few. Additionally, in Germany, the distinction between admissible price differentiation and inadmissible price discrimination, is governed by the General Act on Equal Treatment.</p> <p>(9) Statute law is supplemented by governance measures which are mandatory for insurers. However, in the deregulated insurance market, the decision on pricing is the insurer's task, not the task of the insurance supervisory bodies.</p>	
131	Insurance Trade union Forena	<p>Yes, for sure non-life insurance sector has experienced an increasingly competitive environment, in which insurance firms not only compete on services and cover offered, but also increasingly on price.</p> <p>Future legal frameworks should therefore to some extent promote competition by allowing customers to access their insurance data for their own benefit. This can also develop a modern pricesetting – but only if care is taken from the companies and social responsibility is on the agenda.</p> <p>On the other hand, different price setting, as well as the pay-outs, also relates to the issue of discrimination and ultimately entails a risk that confidence in the insurance industry will fall, which could lead to fewer people, for different reasons, choosing to sign up for insurance policies that are important for them.</p> <p>For the Swedish Insurance trade union Forena, with 14 000 members in the sector, it is of most importance that the sector takes responsibility and act with liability for policyholders no matter gender, age or other disabilities in relation to discrimination. Vulnerable people shall not ever be treated differently in any way. This is also said in EU Charter of Fundamental Rights, that any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.</p>	Thank you for your comments. Eiopa notes and shares your concerns regarding the need to prevent unlawful discrimination and protect vulnerable consumers.
132	MACIF	Hyper-segmentation and demutualization can be observed outside the European Union with prohibitive prices for young drivers or senior people. We believe that these differential pricing practices are very limited, and not used by the majority of major market players in France.	Thank you for your comment. Eiopa and several of the stakeholders that

No.	Organisation name	Response to the public consultation question	Eiopa's comments
		Technological advances also have beneficial effects such as enhancing mutualisation. Premature regulation could nip in the bud the innovation expected by markets and consumers.	participated in the consultation have observed these in the EU.
133	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	<p>The German Insurance Association does not carry out any market observations in this regard and is therefore not in a position to make any statement on the application of different pricing tactics in the German or European insurance market.</p> <p>The Association is often the first point of contact for consumer complaints that may arise in connection with insurance products. In this case, the Association has no knowledge that consumers have critically observed the existence of different pricing practices. The insurer must always act honestly, fairly and professionally in its sales activities vis-à-vis policyholders in their best interests (cf. Art. 17 (1) IDD). The fact that vulnerable groups are treated fairly in pricing has just recently been demonstrated in an investigation by the German supervisory authority BaFin. In this, BaFin confirmed that age differentiation in the area of motor insurance - with regard to the older policyholders designated by Eiopa as a vulnerable group - is based on recognized principles of risk-adequate calculation and thus no indications of inadmissible discrimination against older or younger policyholders emerged (cf. https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Meldung/2020/meldung_2020_07_01_tarifizierung_kfz-versicherung.html;jsessionid=2AF452AA38FE69B4540B6DE4F2DD4D98.2_cid383).</p> <p>Particularly in the area of motor insurance, there exist high price transparency (in a field of comparable service range) and, furthermore, high competition between the motor insurers operating in the German market, which is also reflected in a strong echo in all media in each fall of a year (contract renewal period). Customers can inquire the conditions offered by insurers in a wide variety of ways – digitally or via the more than 200,000 sales staff who are available as contact persons. Switching to another insurer is for the customer possible in a quick way and – due to the one-year term of the motor insurance contract – without effort or disadvantages.</p>	Thank you for your comment. The study from BAFIN has now been referenced in the Supervisory Statement.
134	German Association of Insured (BdV)	Yes, we did. In motor liability insurance many “soft factors” for tariff calculation are used like ownership of a garage (instead of public parking “under a lantern”), being a home owner (instead of renting a flat), being a civil servant (instead of being employed by a commercial company), or subscription of public/urban transport or railways tickets (on monthly or yearly basis). Another	Noted. Thank you for your comment providing further evidence about these practices.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>“hard factor” is, if you live in a big town (more expensive) or on the countryside (less expensive) due to the probability of an accident (though the highest number of deadly accidents are caused on roads or highways between towns).</p> <p>Home owner and home content insurances largely depend on the exact location where you live: postal code for determining the risk of burglary or of flooding. These are “traditional” factors for tariff calculations and they may be considered as statistically relevant. But we are aware of the possibility that these factors may be used for other non-life insurance classes like private third party liability or judicial expenses as well.</p> <p>In fact “differential pricing” is an additional method for tariff calculation by insurers which tries to introduce a kind of “customer scoring” which is already used for a long time by banks for credit lending (for houses, cars and other consumer goods). “Scoring” is a mixture of individual factors (like regular or irregular payments of premiums or debts, frequency of claims/indemnisations or credits) and “socio-economic data” (like categories of income, employment or housing). In Germany the major company for this credit lending scoring relies approximately on 680 million data sets linked to 66 million individual customers. The possible impact of these data on the calculation of premiums of payment protection insurances (PPI) is obvious.</p> <p>Broker website (in German): https://www.verivox.de/kredit/themen/scoring/</p>	
		Q2 – What types of differential pricing practices are you aware of?	
135	BETTER FINANCE - European Federation of Investors and Financial Services Users	<p>Below, we reiterate the example given by BdV on the study of “dynamic pricing” mechanisms:</p> <p>“Recently in one of the most prominent German insurance journals (“Zeitschrift für das Versicherungswesen“) a study on “ Dynamic Pricing” was published (Heft 13/14, S. 377-378, Juli 2022). Following to this study “Dynamic Pricing” is a new version of “predictive modelling” used by insurers since the 1980s. The latter already tried to combine foreseeable market price developments with adjusted risk calculations. “Big Data” may push premium calculations even more focused on special target markets. By using ever more precise “customer categorizations” the insurers may be enabled to base premium calculations on “probability of contract conclusion, rebate potential and cross-selling-possibilities”. In this context “cross” or “up” selling is understood in that</p>	Noted. Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		way that other products of other insurance classes are sold additionally (or premiums of existing contracts shall increase). These are just three examples how to enlarge to the possible use of "dynamic" or "differential" pricing practices not only at the point of renewal of a contract but at the point of sale and at the pre-contractual phase as well by insurers and intermediaries".	
136	Insurance and Reinsurance Stakeholder Group	<p>Personal lines</p> <ul style="list-style-type: none"> - differential pricing between new and renewal premium rates - differential pricing based on length of tenure 	Noted. Thank you for your comment.
137	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Hauptsächlich spielen DPP bei Differenzierung zwischen Neu- und Bestandskunden eine Rolle. Der „fleißige“ Kunde, der jedes Jahr den Anbieter wechselt oder zumindest mit seinem Versicherer verhandelt, wird mit günstigeren Prämien belohnt, während der „träge“ Kunde durch die jährlichen Beitragsanpassungen bei zahlreichen Anbietern die attraktiven Konditionen für Neukunden finanziert.</p> <p>Daneben gibt es einzelne Beispiele, dass v.a. ältere Kunden in der Kfz-Versicherung ab einem gewissen Alter (über 60 Jahren) mit teilweise deutlichen Prämien erhöhungen konfrontiert werden. Inwieweit das Ausmaß der Anpassungen mit der tatsächlich statisch belegten Risikoerhöhung einhergeht, ist „von außen“ aktuell nicht nachvollziehbar.</p>	Thank you for your comment. EIOPA agrees that the price formation is not obvious for several consumers, which increases the risks that they may suffer from differential pricing practices.
138	BIPAR	See above response	Thank you for your comment
139	HUK-COBURG VVaG	<p>Please refer to our response to Q 1.</p> <p>Additional remarks:</p> <p>Obviously, any exchange between competitors with respect to pricing is prohibited under anti-trust law and does not take place. Therefore, pricing models in the market can only be assessed in a limited manner.</p> <p>We are not aware of any comprehensive study regarding pricing in the German insurance market. However, the Federal Financial Supervisory Authority (BaFin) has published a study on age-dependent pricing in motor insurance. As part of the study, 40 insurers were examined. The study found that there was no inadmissible discrimination against older drivers. Taking into account the age as a pricing factor is risk-adequate. See BaFin Journal 1/2021: BaFin - Expert Article - Age can play a role</p> <p>Pricing practices vary between different countries and between different lines of business.</p>	Thank you for your comment. Indeed the Supervisory Statement refers to possible differences between EU member states for a variety of reasons, such as different national legislations and competition in the markets.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>In our opinion, a genuine assessment of the situation can only be achieved by means of individual research conducted by the national supervisory authorities.</p>	
140	Insurance Trade union Forena	<p>We have noticed that some types of differential pricing practices – insurance-conditions – and pay-outs - lead to unfair treatment of some consumers and groups. In relation to data-gathering methods and more advanced calculation methods together with premium changes since policy renewals often occur digitally it is obvious that not only risk poses are factors of actual concern.</p> <p>One such a factor is gender. This factor effects gender equality and indirect discrimination. The Swedish Insurance trade union Forena is aware of very different approaches from Insurance companies when it comes for example domestic violence. Domestic violence is at the same time the clearest expression of inequality between women and men. For example, more women die as a result of domestic violence than die in the workplace. Domestic violence, and in particular men's violence against women, is a major social challenge when it comes to price setting and pay-outs in home-insurances.</p> <p>The trade Union Forena has investigated this area in more detail. We can see that most insurers usually apply to conditions that mean that the assault coverage included in their home insurance does not apply if the perpetrator is a member of the insured parties. This common principle in the sector, used by most of the insurance companies, means that the assault coverage does not apply if the perpetrator and the victim belong to the same household. In practice insurance cover for domestic abuse and violence, which affect women to a greater extent, is virtually non-existent. This means that not everyone in the household will benefit from the security and safety that the policyholder – read women - has paid for and insured themselves for when it really matters.</p> <p>This clearly applies indirectly to the questions about price setting and directly to the financial compensation that could be paid out to women. The Insurance trade union Forena believes this old principle, still often used in Sweden, is outdated and that it's about time for the whole European industry to change its current approach. We are aware that this is a challenge to handle when it comes to the price setting in relation to the The Discrimination Act – but it must be dealt with in the other end – within the insurance conditions and pay- outs.</p> <p>In a consultation like this from Eiopa we appreciate that this perspective is addressed. Please have a deeper view on our findings in our report – you can find on our website. LINK</p> <p>The insurance Trade union Forena organises the employees within the Swedish insurance sector.</p>	<p>Thank you for your comment. EIOPA may review underwriting risk-based pricing practices in a separate exercise and therefore not covered by the present Supervisory Statement.</p>

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		Of Forena's 14 000 members nearly 9 000 are working in mutual companies. Since many years we have as well noticed pricing models that very sharply raised the price on renewal for the benefit of new customers. At the mutual undertakings, who not drives for profit, it is however not as clear a strategy to "buy customers". This must also be taken into consideration and the preservation of the mutual undertakings are essential for a sustainable insurance sector, also when it comes to price-setting.	
141	MACIF	Some of the differential pricing practices mentioned in this consultation paper seems to be applied in non European countries.	Thank you for your comment. See reply to the same comment above.
142	German Association of Insured (BdV)	<p>Recently in one of the most prominent German insurance journals ("Zeitschrift für das Versicherungswesen") a study on "Dynamic Pricing" was published (Heft 13/14, S. 377-378, Juli 2022). Following to this study "Dynamic Pricing" is a new version of "predictive modelling" used by insurers since the 1980s. The latter already tried to combine foreseeable market price developments with adjusted risk calculations. "Big Data" may push premium calculations even more focused on special target markets. By using ever more precise "customer categorizations" the insurers may be enabled to base premium calculations on "probability of contract conclusion, rebate potential and cross-selling-possibilities". In this context "cross" or "up" selling is understood in that way that other products of other insurance classes are sold additionally (or premiums of existing contracts shall increase). These are just three examples how to enlarge to the possible use of "dynamic" or "differential" pricing practices not only at the point of renewal of a contract but at the point of sale and at the pre-contractual phase as well by insurers and intermediaries.</p> <p>Other examples of "price optimisation practices" (term still used in that publication) can be found in the Report from EIOPA's Consultative Expert Group on Digital Ethics in insurance: "Artificial Intelligence Governance Principles: Towards Ethical and Trustworthy Artificial Intelligence in the European Insurance Sector", published in June 2021, Chap. VI: Fairness and Non-Discrimination, especially Figure 12: Types of price optimisation practices, p. 36.</p> <p>EIOPA website: https://www.eiopa.europa.eu/media/news/eiopa-publishes-report-artificial-intelligence-governance-principles_en</p>	Noted. Thank you for your comment.
		Q3 – Do you agree that the use of differential pricing practices is expected to increase as a result of competition in the markets, greater availability of data (Big Data) and/or technological advances (e.g. AI systems)?	

No.	Organisation name	Response to the public consultation question	EIOPA's comments
143	BETTER FINANCE - European Federation of Investors and Financial Services Users	We concur with the conclusions presented by BdV and add that Big Data and Open Finance will bring much more pricing issues, which in essence breach consumer protection rules. Moreover, Big Data and Open Finance may bring stability issues as these can distort competition on the market.	Noted. Thank you for your comment.
144	Deutsche Aktuarvereinigung e.V.	In a competitive, free market pricing techniques get more sophisticated as competition grows and margins shrink. This is independent of the use data or technology. Restrictions of a free market can lead to detrimental effects for costumers. Therefore regulations of DPP should be clearly defined in respect to its goals and limits.	Noted. Thank you for your comment. Indeed, the Supervisory Statement acknowledges that differential pricing practices are not new for the insurance sector and can also be applied without AI methods or the use of Big Data.
145	Insurance and Reinsurance Stakeholder Group	Potentially, though we believe that undertakings are making progress in their Product Oversight and Governance (POG) activities in developing appropriate frameworks for assessing the "fairness" of products. Continued developments in this area are likely to act as a brake on the expansion of differential pricing practices.	Noted. Thank you for your comment. EIOPA agrees that POG plays a key role in ensuring fair outcomes for consumers.
146	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Es handelt sich um ein sich dynamisch entwickelndes Feld, so dass sich die Anwendungsgebiete für Big Data und/oder AI noch nicht abschließend benennen lassen. Vielmehr befinden sich viele Versicherungsanbieter noch in der Erprobungsphase dieser Techniken. Hier wird es in den kommenden Jahren sicherlich zu Veränderungen kommen, indem Big Data und/oder AI sukzessive Einzug in die verschiedenen Prozesse, insbesondere auch im Pricing, erhalten. So ist eine Übernahme von Vorgehensweisen aus anderen Branchen nicht unwahrscheinlich (z.B. Pricing auf Basis von digitalen Kundenprofilen oder Onboarding-Kanal), soweit dem keine rechtlichen Einschränkungen gegenüberstehen.	Thank you for your comment. EIOPA will indeed continue monitoring the market to better understand the role of AI in differential pricing practices.
147	BIPAR	BIPAR believes that the greater availability of data and technological advance could lead to an increase of the use of differential pricing practices within the limits of the different national legal frameworks (ex: price walking practices are banned in Ireland). However, it also believes that the current Product Oversight and Governance (POG) requirements have led to the setting up of useful frameworks for assessing the "fairness" of products and can prevent the increase of differential pricing practices. In its report on "Artificial Intelligence Governance Principles: Towards Ethical and Trustworthy	Thank you for your comment. EIOPA agrees that POG represents a useful framework for addressing differential pricing practices. However, the increase in sophistication of methods and technologies used needs

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>Artificial Intelligence in the European Insurance Sector”, the EIOPA Consultative Expert Group on Digital Ethics explains that “a possible balanced solution in this area could consist on the following: for essential insurance lines of business, price elasticity models and individual real-time price comparison techniques used to maximise the price should be viewed critically from an ethical, fairness and also competition point of view and therefore avoided, both during the on-boarding of the consumer and at the renewal stage”. It further explains that “The premium paid by consumers at the renewal stage should only be increased on the grounds of increased risks or increased costs (e.g., changes in the non-accident ratio, increasing healthcare costs, original premium include a commercial discount etc.), i.e., premium increases unrelated to increasing risks or increasing costs should be avoided, but premiums discounts for commercial and marketing purposes can take place with the safeguards mentioned above”.</p> <p>BIPAR also believe that it is important that consumers are informed when (and possibly how) their data (and in particular new types of data such as those coming from wearables, telematics, social media) are used within AI algorithms, (and how it will/can influence their premiums). As mentioned in the EIOPA expert group report, a “correction/verification” loop is of outmost importance. Insurance intermediaries can play a role in the prevention for the use of poor-quality data since, in their advising activities, they would be able to detect such potential poor data usage, in all areas of the value chain where they are involved”.</p>	<p>to be balanced by increasing sophistication of governance and risk management processes, including by monitoring the outcomes of such methods.</p>
148	HUK-COBURG VVG	<p>Please refer to our response to Q 1.</p> <p>Additional remarks:</p> <p>Yes, it is true that intense competition has been playing a major role in motor insurance since the deregulation of the insurance market.</p> <p>No – in our opinion, unfair price differentiation without any factual justification is not a result of Big Data or AI. These technologies in themselves are neutral. While the use of AI may increase differential pricing opportunities, the decision to do this is still up to each company itself. Unfair practices result from non-principle-based, non-ethical and potentially even non-lawful corporate and distribution management. Legal and ethical requirements for BDAI applications must be considered in the product design in the same way that this is required for analogue products.</p> <p>In addition, we would like to point out that Big Data / AI can also be used in a completely different way: With telematics, the risk-oriented approach can be strengthened considerably because the</p>	<p>Thank you for your comment. EIOPA agrees that legal and ethical requirements for complex models and technologies such as AI systems must be considered in the product design process – this has been reflected in the revised supervisory statement.</p>

No.	Organisation name	Response to the public consultation question	Eiopa's comments
		<p>customers' driving behaviour, which they can actively influence themselves, then plays a much bigger role. Pricing becomes much fairer as a result.</p> <p>This shows that a company's attitude is the decisive factor when it comes to the way in which Big Data / AI is used.</p>	
149	Insurance Trade union Forena	<p>More open data can of course empower lot of new and better products. Mandatory standardized AI systems and APIs can create new business opportunities and increase the EU's digital competitiveness. However, it is crucial that legal frameworks are being developed by supervisor authorities together with trade union influence and perspectives.</p> <p>Due to our trade union view, its our opinion that local social dialogue structures with participation of employees representatives and trade unions, are key to providing the necessary support for employees in the sector. Information and consultation structures enables better products supplied to policyholders. Trade Union involvement will better shape the introduction of a greater availability of data and more effective advanced AI systems, also in relation to price-setting. The trade union perspective must be taken into consideration in relation to policyholders and the future of pricessetting, as well as within the field of monitoring as the effect of the new AI systems.</p> <p>Therefore we need to ensure that all AI and API:s are respectful of workers' rights – and consumers rights – at the same time. Customers shouldn't be affected because of algorithmic price setting as less as workers should be redundant on the basis of algorithmic decisions by management.</p>	Thank you for your comment. Eiopa agrees that the involvement of all relevant stakeholders is important to ensure good consumer outcomes.
150	MACIF	We believe that the current EU and national regulations adequately prevent these practices, regardless of technology.	Noted. Thank you for your comment.
151	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q1.	Noted. Thank you for your comment.
152	German Association of Insured (BdV)	<p>Yes, we agree (cf. our comments on Q 1 and Q 2). "Dynamic pricing" relies on a kind of "customer scoring" already used by banks for credit lending for a long time. The more granular socio-economic data are available, the more "Big Data" may be used to forthcoming evaluation procedures based on AI.</p> <p>Additionally we stress that from an actuarial point of view differential pricing practices may lead to distorted premium calculations, i.e. if some customers get rather strong premium reductions, at the same time the premiums for other customers have to be increased ever stronger. Only by doing so,</p>	Thank you for your comment. By raising the supervisory concerns about differential pricing practices and in particular price walking practices, Eiopa expects to mitigate the premium

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		the actuarial calculation of the risk pool can be maintained in a balance, in other words: the fundamental "law of the large numbers" will always have to be respected for appropriate insurance tariff calculations, and therefore differential pricing practices must not be overdone.	differences between new and loyal customers.
	Organisation name	Q4 - Do you agree with the risks identified from differential pricing practices?	
153	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes, we concur with EIOPA's assessment and, in light of Q1 and Q3 above, we wish to add risks to distortion of competition, mis-selling, financial exclusion, and data protection.	Noted. Thank you for your comment. The financial exclusion of vulnerable consumers is indeed one of the key issues identified from differential pricing practices.
154	Deutsche Aktuarvereinigung e.V.	<p>We believe that in a free, deregulated market, competitors should be able to choose prices freely. Restrictions should only be implemented, if there are specific detrimental effects that cannot be mended otherwise. We see the risk, that regulation can lead to less competition and to detrimental effects on costumers.</p> <p>Overall regulation of DPP has to be clearly defined. It must be obvious for insurance companies, which DPP is permitted and how this can be determined. This concerns for example the definition of the groups of vulnerable customers.</p> <p>We want to point out, that it is impossible to determine if a specific pricing was subject of DPP by looking at the prices ex-post. For a working regulatory framework it would therefore be necessary to implement measures in the pricing process, that are proportionate to the risk involved. This should also be done independent of the methods and data used (e.g. BigData or AI).</p>	<p>Thank you for your comment. As previously mentioned, EIOPA reiterates that the clarifications provided in the Supervisory Statement do not aim to interfere with business decisions and/or pricing. Rather, it addresses the product design – including the pricing process – by emphasising that if certain pricing features – rather than the pricing itself – lead to consumer detriment these should not be put in place.</p> <p>Furthermore with the present Supervisory Statement EIOPA has sought to provide further clarity of the supervisory expectations regarding the IDD regulatory framework.</p>

No.	Organisation name	Response to the public consultation question	Eiopa's comments
155	Insurance and Reinsurance Stakeholder Group	<p>Yes.</p> <p>In a system where differential pricing based on tenure exists, those who shop around are advantaged while those who do not, which may include vulnerable customers, tend to pay more.</p> <p>In more general terms, we welcome Eiopa's emphasis on risk-based pricing which is at the heart of insurance. A prerequisite for any risk-based pricing is data and insurance-specific regulation, here in particular the Solvency II Directive (Articles 82 and 84) and the Delegated Regulation (EU) 2015/35 (Article 19), requires insurers to have complete, accurate and appropriate data to assess risks. We observe, however, that some recently published legislative proposals – that are not insurance-specific but horizontally applicable among various sectors – suggest that insurers should not be allowed to use necessary data, in particular for setting premiums. This is particularly true for the right to be forgotten (RTBF) discussed in the context of the review of the Consumer Credit Directive and the proposal of the European Commission on the European Health Data Space. Article 35(b) of the latter suggests that insurers are not allowed to process electronic health data for secondary use in relation to premium setting. This prohibition would, therefore, impede insurers to use newly available health data which can be used to underwrite and assess risks more accurately and therefore is contradictory to existing legal acts like the Solvency II Directive and the Delegated Regulation (EU) 2015/35.</p>	Noted. Thank you for your comment.
156	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Grundsätzlich sind die genannten Risiken nachvollziehbar und dürften sich tatsächlich auch bereits materialisiert haben.</p> <p>Allerdings tun wir uns mit der Begrifflichkeit des „verletzlichen Kunden“ dahingehend schwer, dass es an einer konkreten und vor allem eindeutigen Definition dieses Begriffes fehlt. Zumal der Kundenstatus auch unabhängig von fixen Merkmalen (Alter, Bildungsstand) und dafür situationsbezogen variieren kann ("große" Lebenssituationen / Anlässe). Wir sehen die Gefahr, dass die Versicherungsanbieter dies sehr unterschiedlich festlegen, wenn jeder seine eigene Definition verwenden kann.</p> <p>Zusätzlich möchten wir nochmals auf die Besonderheiten der Tarifgenerationen im dt. Versicherungsmarkt hinweisen. Dies ermöglicht unter Umständen die Umgehung der intendierten Regulierung, da sich Neu- und Bestandskunden in der Regel durch die Tarifgeneration unterscheiden. Dies erschwert den formalen Nachweis von DPP - zumindest für den dt. Markt - deutlich.</p>	Thank you for your comment. Eiopa has tried to provide further clarity about the supervisory expectations by providing some examples of differential pricing practices and vulnerable consumers. However, the Supervisory Statement is principle-based and insurance manufacturers should adapt the product oversight and governance measures to the nature, scale and complexity of their business model, taking into account both the process

No.	Organisation name	Response to the public consultation question	EIOPA's comments
			followed as well as their outcomes.
157	BIPAR	<p>BIPAR believes that the impact of differential pricing practices is likely to be more detrimental for vulnerable consumers.</p> <p>BIPAR also agrees that “the increasing use of different types of behavioural data not related to risk or cost of service for differential pricing practices (...) increases the risks of indirect discrimination. These risks could be amplified when data is processed with complex AI systems (...)”.</p>	Noted. Thank you for your comment.
158	HUK-COBURG VVaG	<p>Additional remarks to responses given in Q1 and Q3:</p> <p>No, we do not share these concerns. Several measures have been implemented in Germany to prevent the risks identified. The circumstances in Germany are not comparable to those prevalent in the UK. At the same time, we believe that potential studies should place the focus not only on consumer interests, but also on the legitimate interests of the entire community of insured persons, of the general public and of insurers. Also, we regret that in the present consultation only the price and not the price/performance ratio is considered.</p> <p>In detail:</p> <p>We do not share the concern that motor insurance customers in Germany are not price sensitive enough, not informed enough or too passive to switch to a new tariff or to another insurer to obtain cheaper conditions. In contrary, German motorists are particularly price sensitive and informed. This is true for both new customers and existing customers, and it applies irrespective of their age, income and financial situation or their status as a consumer:</p> <p>(1) Every year, millions of motorists switch their motor insurance policy. This is the result of many years of price sensitisation promoted by marketing and distribution campaigns of insurers, consumer advice given by consumer protection associations, etc.</p> <p>(2) A premium increase for existing insurance policies is only possible based on a premium adjustment clause. This clause must comply with statutory requirements. The clause and the premium increase are fully verifiable by courts.</p> <p>(3) Existing customers wishing to switch their policy or insurer have easy options to do so. The range of products is diverse with around 100 motor insurers and several hundreds of product lines.</p>	Thank you for your comment. EIOPA acknowledges that there may be differences on how differential pricing practices are applied across national markets. For this reason, the Supervisory Statement allows national competent authorities to, following a risk-based approach and taking into account relevant regulatory requirements in national legislation, to define the scope of their supervisory work in those areas where they consider that greater threats to consumer protection exist.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>(4) Motor insurance is simple and a mass business. Products are easy to compare, with or without insurance experience. Insurance documents, including the product information document, provide transparency on the contents of the insurance policy.</p> <p>(5) It is up to politics, society, consumer protection entities and the media to guarantee consumer education regarding financial security and issues like AI.</p> <p>The example described in the Consultation Paper – that customers who constantly shop around for the cheapest insurance premium and therefore switch their insurance frequently will get a cheaper price than loyal customers – does not meet the requirement of risk and cost-adequate pricing. Frequent switches of a customer are extremely expensive for insurers, i.e. cross-subsidisation is taking place. If pricing is dominated by this type of behaviour, the company is harming itself and may jeopardise its continuous capability to fulfil insurance contracts. The bankruptcy of the Dutch insurer INEAS is illustrative of this.</p> <p>There are existing instruments to counteract potential inadmissible business practices of insurers. Examples:</p> <p>(1) If an insurer uses a legally inadmissible premium differentiation factor, it is up to the national supervisory authority to intervene in case collective consumer protection is at stake or irregularities are identified. Individual or class actions are possible as well.</p> <p>(2) Indirect discrimination is inadmissible under the General Act on Equal Treatment in the same way that direct discrimination is inadmissible. There is no need to amend the law. Preventing inadmissible discrimination is part of the product design.</p> <p>(3) Social attitudes and values are always evolving. Should any pricing factors that are currently legally admissible turn out to be socially unacceptable in the future – whether they are risk-based or not – it will be up to legislators to prohibit or limit them.</p> <p>(4) If customers in new business are baited with extremely cheap premiums (that are priced inadequately) in a way that cancels out any rational purchase deliberations, this is relevant under aspects of competition law. It is up to the competition authority to act in that respect. Competition or consumer protection associations are also called to action in these types of cases.</p> <p>Insurance systems, market conditions and customer needs are shaped by national circumstances.</p>	

No.	Organisation name	Response to the public consultation question	Eiopa's comments
		National findings and measures cannot simply be generalised or transferred to other EU member states. This would lead to impertinent results, or in the worst case, to instability. Potential regulatory measures should only be taken based on recent and relevant studies, research and data, as well as after an extensive impact assessment by national supervisory authorities and based on a statutory authorisation. This is particularly important when it comes to pricing, which, along with insurance cover, constitutes the innermost core of the insurance business. Sovereignty over products and pricing lies with the insurer. So, placing the focus only on consumer protection aspects is a much too narrow perspective. This does not do justice to the purpose of insurance.	
159	Insurance Trade union Forena	Yes, definitely. Future rules should promote competition by allowing customers to access their insurance data for their own benefit and the insurance companies must treat this responsibility very well. As said before vulnerable groups and discrimination must be taken into consideration here.	Noted. Thank you for your comment.
160	MACIF	<p>New guidelines, to be productive, should be supported by figures and concrete examples that show the extent of those harmed.</p> <p>As you indicate, some non-European countries have been able to use these differential pricing techniques and Artificial Intelligence could eventually slightly facilitate these practices. They are not used by MACIF, a mutualist insurer. We believe that the use of these practices is very limited, and that they are not used by the majority of major market players in France. Technological advances also have beneficial effects such as enhancing mutualisation. Premature regulation could nip in the bud the innovation expected by markets and consumers.</p>	Thank you for your comment. Eiopa and its members consider that they have sufficient evidence about the use of differential pricing practices to issue the Supervisory Statement.
161	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q1.	Noted. Thank you for your comment.
162	German Association of Insured (BdV)	<p>Yes, we agree (cf. no. 2.5 to 2.7, p. 6, of CP), but we stress the possible use of differential pricing practices not only at the point of renewal, but at point of sale in general, too (cf. our comment on Q 2).</p> <p>Additionally we stress the importance of and fully agree with the “risks to consumers” already analysed by the “Joint ESA response” of 31 January 2022 to the “European Commission’s February 2021 Call for Advice on digital finance and related issues” (part of Chapter 2.2, p. 35-43), especially:</p> <ul style="list-style-type: none"> • No. 107, 110 and 111: Risks linked to cross-mis-selling; • No. 117: Risks of financial exclusion and risks of lack of digital financial literacy; 	Thank you for your comment. While the Supervisory Statement focuses on differential pricing practices applied at the renewal stage, Eiopa will nevertheless closely monitor the market and in the future may also consider addressing differential pricing practices at the point of sale, including

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>• No. 122: Risks in relation to the access and use of customer data.</p> <p>Conclusion: Additional vulnerabilities may be exacerbated by digitalisation, if more granular consumer data combined with AI will increase the ability of undertakings to charge differential amounts to groups of consumers that are similar in terms of risk and cost to serve.</p> <p>ESMA website:</p> <p>https://www.esma.europa.eu/document/joint-esa-response-eu-commission-digital-finance</p>	<p>new business discounts or cross-selling and up-selling practices to existing customers. These practices nevertheless should also count with adequate and proportionate governance measures.</p>
	Organisation name	Q5 - Do you agree with the scope of the Supervisory Statement?	
163	BETTER FINANCE - European Federation of Investors and Financial Services Users	<p>Yes, we agree with EIOPA on the scope of the Supervisory Statement (paras. 2.18-2.26) and welcome the initiative as now supervisory action and escalation of investigations are needed to signal bad practices to market participants and act as a deterrent in the future. If not, then we run the risk of seeing new mis-selling "scandals" with consumer financial products.</p>	<p>Noted. Thank you very much for your support.</p>
164	Deutsche Aktuarvereinigung e.V.	<p>See Q4</p> <p>We like to point out, that we see actuaries as most fit to cover the technical and professional requirements needed for the implementation of DPP regulatory measures in insurance companies. Actuaries are expert in pricing methodology and governance processes and maintain a high level of professional competence through basic and further training. Actuaries are committed to acting with integrity and professionalism through their everyday work. Therefore, Actuaries should play a major role in DPP processes. We suggest that the pricing oversight tasks of the Actuarial Function should be extended to the oversight of the use of DPP.</p>	<p>Thank you for your comment. While EIOPA agrees with the importance of involving the actuarial function, insurance product manufacturers should define the POG process which in their views best suit their business model and leads to good consumer outcomes.</p> <p>The Supervisory Statement has also been slightly amended to reflect that all relevant functions and staff</p>

No.	Organisation name	Response to the public consultation question	EIOPA's comments
			members need to be involved.
165	Insurance and Reinsurance Stakeholder Group	<p>Yes, though we believe that consideration should also be given to commercial lines business (which can also contain elements of personal lines business) with all due respect for the principle of subsidiarity and proportionality.</p> <p>In particular, any follow-up action to this Supervisory Statement taken by EIOPA and National Competent Authorities (NCAs) should be careful to avoid any unforeseen consequences on the commercial lines (i.e. outside of retail), where there are likely to be different attitudes surrounding differential pricing practices in the non-life business.</p> <p>We welcome EIOPA's clear commitment not to aim at interfering with pricing which manufacturers are free to set in particular according to Article 21 of the Solvency II Directive.</p> <p>There is however a risk that the suggested approach will unintentionally interfere with pricing. Alternative measures to address the issue should therefore be thoroughly assessed (see below).</p>	Thank you for your comment. The Supervisory Statement clarifies that, while it applies to all differential pricing practices regardless of the type of customers, however, competent authorities, in view of proportionality and following a risk-based approach should focus on those practices applied to retail consumers (including SMEs) as they are more exposed to the risks arising from differential pricing practices
166	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Die Einschränkung auf Retail-Kunden ist nachvollziehbar. Ggf. sollte man eher zwischen tarifiertem Geschäft und Individualgeschäft trennen. Denn gerade auch bei Kleingewerbetreibenden kommen mitunter Tarifmodelle zum Einsatz, die nach unserer Einschätzung eher für DPP anfällig sind.</p> <p>Die Fokussierung auf Beitragsanpassungsstrategien ist für den dt. Versicherungsmarkt aus unserer Sicht überfällig.</p>	Thank you for your comment. Please see the response to the previous comment about small businesses.
167	BIPAR	<p>EIOPA explains that its draft supervisory statement covers non-risk differential pricing practices in non-life to retail customers, with a specific focus on price walking practices.</p> <p>BIPAR agrees with that focus as these practices (when allowed) are the most likely to lead to discrimination and be detrimental to consumers who are not corporate clients. This is very well illustrated in EIOPA expert group report on "Artificial Intelligence Governance Principles: Towards Ethical and Trustworthy Artificial Intelligence in the European Insurance Sector".</p> <p>However, it is not always clear in its wording that the draft statement covers only non-life insurance products.</p>	Thank you for your comment. The revised Supervisory Statement now includes a explicit reference to the definition of product manufacturers under the POG Delegated Regulation to provide further legal clarity. The reference to

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>EIOPA draft supervisory statement covers “the activities of insurance undertakings and intermediaries (including managing general agents) that manufacture insurance products that are offered for sale to customers (jointly referred as 'manufacturers'), which are competent for determining the premium paid by a consumer of an insurance product”.</p> <p>BIPAR agrees with the logic to include in the statement those intermediaries that “manufacture insurance products that are offered for sale to customers and which are competent for determining the premium paid by a consumer of an insurance product”.</p> <p>However, for the sake of clarity it would be useful to refer instead to Article 3.1 and 3 of the IDD POG Delegated Regulation and not introduce new definitions or concepts.</p> <p>“For the purposes of Article 25(1) of Directive (EU) 2016/97, insurance intermediaries shall be considered manufacturers where an overall analysis of their activity shows that they have a decision-making role in designing and developing an insurance product for the market”.</p> <p>Also, it must be reminded here an important clarification of Recital 8 of IDD POG Delegated Regulation:</p> <p>“(…) . Activities related to the mere adaptation of existing insurance products, including cases where the intermediary has a choice between different variants of a product, different contractual clauses or options, or may agree with the customer on discounted premiums or fees, should however not be regarded as manufacturing since in such cases the main decisions on the design and development of the product are made by the insurance undertaking and not by the insurance intermediary”.</p> <p>EIOPA draft supervisory statement also covers “the activities of insurance intermediaries that do not have any influence in determining the premium paid by the consumer, but only to the extent they are made aware of such differential pricing practices, since they need to take this information into account when providing information to consumers”.</p> <p>Again, reference to definitions provided at level 1 and 2 would provide more legal clarity. It is also important that those intermediaries are not made liable via the statement for information they don't decide on.</p>	<p>MGAs has also been removed.</p>

No.	Organisation name	Response to the public consultation question	Eiopa's comments
		<p>We would suggest not to refer to the concept to MGA for the time being. As explained by Eiopa in its Peer Review report on outsourcing: "Furthermore, Eiopa will assess the need to further develop the concept of Managing General Agent (MGA), in order to ensure convergence in the regulation and supervision of this type of entities". Some MS do not recognize in their jurisdictions the concept of MGAs or have different definitions.</p> <p>While BIPAR agrees with the technology-neutral approach of the statement meaning that it applies to pricing practices whether they are based or not on AI systems, and also with the fact that when based on AI system, insurance product manufacturers should take into account the specific challenges arising from the use of this technology, this should not lead to additional requirements for non AI based processes, in particular as, as mentioned by Eiopa, this is already covered "to a certain extent, in the governance processes of product manufacturers foreseen in the IDD and POG Delegated Regulation".</p>	
168	HUK-COBURG VVG	Please refer to the answers of Q6.	Noted. Thank you for your comment.
169	MACIF	The scope should be adjusted according to the results of the soon to come studies of European market practices and its quantitative impact on consumers.	Thank you for your comment. The results of recent studies in Sweden and Germany have been incorporated into the revised Supervisory Statement.
170	GDV - Gesamtverband der deutschen Versicherungswirts- chaft e.V.	Some of the studies listed in the consultation have not yet been finalized or published. We therefore suggest waiting for the results of these studies and advocate policy option 2 of the impact assessment.	Thank you for your comment. Please see the response to the previous comment.
171	German Association of Insured (BdV)	<p>Yes, we agree upon the definition of differential price practices (cf. no. 2.18 and 2.19, p. 9, of CP) and the technology-neutral approach (cf. no. 2.22, p. 10, of CP). But the Supervisory Statement should already include a hint on possible future enlargements of the use of differential pricing practices at the point of sale (rebates for new customers, cross and up selling practices, etc.).</p> <p>We think that by publishing this Supervisory Statement the judicial supervisory framework with regard to differential pricing practices should be enough – at least for the moment. The IDD itself, being completed by the POG Delegated Regulation EU (2017/1258) and the forthcoming Supervisory Statement, must lead to effective "enhanced supervision" by Eiopa and the NCAs. In</p>	Thank you for your comment. Eiopa has reinforced the technology-neutral approach by removing some references to AI in the Supervisory Statement, and the Feedback Statement also includes a hint that in the future it could further expand

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		consequence what is mostly needed now, is supervisory action (like the use of product intervention powers). Additional judicial supervisory requirements should nevertheless be envisaged, if this "enhanced" supervisory activities clarifies that there are conduct of business patterns severely detrimental to customers, which cannot be stopped the existing judicial framework.	the scope to differential pricing practices at the point of sale. These practices should nevertheless also count with appropriate and proportionate governance measures.
		Q6 - Do you agree with the objectives of the Supervisory Statement?	
172	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes, BETTER FINANCE agrees that Eiopa should not attempt to interfere directly on pricing, but that the internal practices, particularly what influences risk premiums, should be supervised.	Noted. Thank you very much for your support.
173	Insurance and Reinsurance Stakeholder Group	<p>In general yes. We are supportive of measures aimed at ensuring the fair treatment of consumers, and particularly those consumers who are vulnerable.</p> <p>We note that there are indications that a significant proportion of customers are not aware of the operation of differential pricing against their best interests, believing that they will be favourably treated as their tenure as customers increases. It is questionable whether this perception can be changed, but information provided to customers is a key part of the issue.</p> <p>We would caution against the introduction of measures which would act to reduce competition, or to standardise product offerings, either of which would not be in the interest of the consumer and would go against EU competition law as well as insurance specific regulation like the Solvency II Directive (Article 21) and the POG delegated Regulation (recital 8). We believe that the free market tends to be a good regulator of economic activity, and suggest that a demonstrably effective POG process together with suitable consumer communications are the best way to achieve fairness for consumers.</p> <p>The financial inclusion of vulnerable customers is of vital importance. If Eiopa identify specific practices which are resulting in unfair treatment of vulnerable customers, for instance by restricting their access to insurance products by making them unaffordable, this should be addressed.</p>	Thank you for your comment. Eiopa agrees that existing legal requirements including IDD and the POG Delegated Regulation are sufficient to address the consumer risks arising from differential pricing practices; with the present Supervisory Statement Eiopa aims to clarify the supervisory expectations in this regard. Eiopa will also continue monitoring the market to identify possible situations where unfair treatment of consumers may arise, in particular with regards to vulnerable consumers.

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174	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Wir verstehen das vorliegende Statement als Konkretisierung zur Auslegung bestehender Regelungen. Auch wenn wir grundsätzlich die Vermeidung zusätzlicher Regulierungen begrüßen, haben wir Zweifel, dass ein solcher Appell zu dem gewünschten Ergebnis führt. Zumal die Ausführungen an mehreren Stellen noch immer vage sind („verletzliche Kunden“, „faire Behandlung der Kunden“). Vielmehr sind wir der Ansicht, dass es eine deutlichen Steigerung der Transparenz bei DPP bedarf. Nur so können Verbraucher ihr Verhalten entsprechend anpassen und damit zu entsprechenden Veränderungen führen. Hier hat sich in anderen Bereichen auch etabliert, wenn andere Marktteilnehmer Druck auf die Anbieter ausüben können (z.B. Abmahnung). Dies erfordert aber, dass DPP auch hinreichend nachvollziehbar ist. Eine Subsummierung unter die bestehende POG-Regulierung erscheint nicht ausreichend zu sein.	Thank you for your comment. While we understand your concerns, EIOPA believes that at this stage the current IDD regulatory framework is sufficient to address the risks arising from differential pricing practices; by clarifying the supervisory expectations EIOPA expects that this would help enhance consumer protection.
175	BIPAR	<p>BIPAR supports measures that aimed at ensuring the fair treatment of consumers.</p> <p>EIOPA explains that the statement does not aim to interfere with pricing which manufacturers are free to set. BIPAR welcomes EIOPA's clear commitment in this respect, which is in line with Article 21 of the Solvency II Directive. And also with recital 8 of the IDD POG delegated Regulation that states “The requirement to assess the product performance should however not be understood as an interference with the manufacturers' freedom to set premiums or as price control in any form”.</p> <p>BIPAR agrees that the aspects highlighted and included in the draft Supervisory Statement should not constitute new requirements, in particular requirements which could reduce competition or standardise product offerings which would not be in the interest of EU consumers. We believe that the current POG measures together with appropriate consumer information are the best way to achieve fairness for consumers.</p>	Thank you for your comment. Indeed, the Supervisory Statement does not constitute new requirements, but rather clarifies what are the supervisory expectations under the current IDD regulatory framework concerning differential pricing practices.
176	HUK-COBURG VVaG	<p>In reference to Q5 and Q6:</p> <p>Please refer to our response to Q1 and Q4.</p> <p>We agree with the opinion that sovereignty over pricing lies with the insurer. Moreover, we agree with the opinion that pricing must be fair and that no categories of customers may be inadmissibly disadvantaged.</p> <p>Additional remarks:</p>	Thank you for your comment. Please see previous answer about the regulatory framework. The Supervisory Statement clarifies that it does not aim to interfere with business decisions and/or pricing. They are rather intended to ensure that the

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>(1) The insurance industry is highly regulated as it is. Generally speaking, existing laws and governance measures are suitable to face new challenges such as BDAI or instances of unfair competition as well. At most, selected enhancements are required – based on principles, in a proportionate way and according to verifiable criteria. Existing rules must be applied.</p> <p>(2) Insurance products and insurance tariffs can be freely determined since the deregulation of the market. The responsibility and decisions of product and price management lie with the insurance companies. Especially in volatile times that are characterised by Russia's war on Ukraine, high inflation, energy shortages and climate change, and considering that claims costs could increase (dramatically) in the future, rigid measures like a price cap for the existing portfolio are out of the question. This could lead insurers into financial difficulties or cause their stock market value to plummet.</p> <p>(3) The insurers' continuous capability to fulfil insurance contracts and an adequate price/performance ratio, i.e. pricing based on average claims expenditure and incurred costs, must be at the centre of pricing considerations. That is the central argument. However, this is not mentioned in the Consultation Paper. Rather, consumer protection is only interpreted in the sense of a lower premium. This perspective is too narrow and does not do justice to the interests of consumers – nor to those of other stakeholders.</p> <p>(4) The principle of the rule of law must be observed. Interference with business operations, such as interference with sovereignty over pricing, must be legitimised by law. Not even legislators can legitimise a price cap or other non-principle-based limitations on premium adjustments for existing policies. These types of measures are neither necessary nor proportionate. They are extremely risky.</p> <p>(5) Findings in individual lines of business or individual countries cannot simply be transferred to the entire EU.</p>	<p>processes followed by insurance manufacturers in the product design and pricing are sufficiently customer-centric, balancing the interests of the target market with the interests of the insurance manufacturer. Moreover, the Supervisory Statement has included the metric of comparing for different types of consumers with similar risk profiles the ratio between the technical price and the real price paid by consumers.</p>
177	Insurance Europe	<p>Although pricing and other commercial decisions are very sensitive areas, the potential concerns raised by EIOPA are significant and, if pricing practices resulting in unfair outcomes for consumers were identified in the market, these concerns would need to be addressed. Access to insurance and fair treatment are both vital.</p> <p>As a European federation we are not able to comment on the specific questions raised. We do not have a pan-European picture of the prevalence of differential pricing practices, and it is beyond our</p>	<p>Thank you for your comment. Indeed with the present Supervisory Statement EIOPA seeks to address certain types of differential pricing practices that are considered to lead to unfair</p>

No.	Organisation name	Response to the public consultation question	Eiopa's comments
		<p>remit to delve into the individual commercial decisions of insurance companies. Neither we or our member organisations conduct market surveillance in this area.</p> <p>The decision to publish measures targeting pricing and commercial decision-making is unprecedented and must be treated sensitively to avoid calling on national supervisors to overstep their specified mandates. We would like to highlight the following, which must be taken into account:</p> <p>There are existing national and EU rules that should be considered in assessing whether further action is necessary. Art 17(1) IDD requires that in its sales activities vis-à-vis policyholders, the insurer must always act honestly, fairly and professionally in their best interests. This is supplemented by various national provisions in industry-specific regulations, and broader contract law. The application of this law is monitored by the national courts, national supervisors or consumer protection bodies.</p> <p>Eiopa and NCAs have an extremely limited role in taking action that directly impacts individual insurers' ability to set prices and commercial terms. Eiopa indicates that the legal basis for its activity is Art 29(2) of the Eiopa Regulation, on the formation of a common supervisory culture. However, in exercising these powers it is vital that Eiopa respects the principles of subsidiarity and proportionality.</p> <p>In order for Eiopa to take action, there must be a clear need for EU-level action that cannot be achieved at member state level. Art 21 Solvency II stresses that cost management is primarily the responsibility of the product provider and the supervisor only insofar as the tariff must not jeopardise the financial situation of the insurer.</p> <p>The IDD product oversight and governance (POG) rules are unlikely to be a sound basis for any action on this issue. POG relates to the oversight of the product design and review and relies heavily on the impact on the product's target market. POG requirements aim to ensure the interests of customers are central to product design and throughout the lifecycle of a product.</p> <p>POG measures should be applied in a proportionate manner, depending on product complexity, the nature of the insurance product and the risk of consumer detriment related to it, the characteristics of the target market and the nature of the manufacturer or distributor. According to recital 2 of the POG Regulation, this means POG measures should be relatively simple for straightforward and non-complex products that are compatible with the needs and characteristics of the mass retail market.</p>	<p>treatment of consumers. In doing so Eiopa carefully follows the principle of proportionality and subsidiarity, since it is using one of its supervisory tools available (a Supervisory Statement) that is less intrusive. Furthermore, following a proportional and risk-based approach, the Supervisory Statement identifies certain differential pricing practices that do not lead to supervisory concerns, and on the other hand it highlights those ones that are deemed to lead to unfair treatment of consumers. Moreover, the Supervisory Statement follows a risk-based approach, allowing national competent authorities to define, following a risk-based approach and taking into account relevant regulatory requirements in national legislation, the scope of their supervisory work in those areas where they consider that greater threats to consumer protection exist. For the remaining comments, including the legal basis and the relevance of POG,</p>

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>The POG rules do not require insurers to specify the methodology used to determine individual prices. Recital 8 of the POG delegated regulation specifically clarifies that “The requirement to assess the product performance should ... not be understood as an interference with the manufacturers’ freedom to set premiums or as price control in any form.”</p> <p>Freedom to set prices is a key element of free and fair competition. Pricing policies are defined by technical features and commercial policy, management fees and reinsurance charges, fixed by each insurance company. Each company is free to develop its own business strategy (including setting prices). This diversity creates strong and efficient competition in insurance that leads to a diversity of approaches in customer acquisition and loyalty policies.</p> <p>The best competition is achieved when there are numerous business models in a market, as long as there is transparency towards the individual consumer. The customer is informed about the cost of the product, both in new sales and in renewals, and can call or visit different providers in a competitive market.</p> <p>There is no evidence that the use of AI to set premium levels is damaging. The 2021 report from EIOPA’s digital ethics expert group pointed to a divergence in opinion as to whether regulatory intervention in this area would have a positive impact. It identified several reasons why prices may legitimately be altered, such as commercial, marketing or underwriting discounts to try to attract or retain consumers in the course of a commercial transaction, noting the importance of portfolio size and high customer retention from an economic perspective.</p>	<p>please kindly refer to the Feedback Statement to the public consultation.</p>
178	MACIF	<p>The objectives should be adjusted according to the results of the soon to come studies of European market practices and its quantitative impact on consumers. The objectives should not reinvent existing rules that already work well.</p>	<p>Thank you for your comment. The results of some recent studies in Sweden and Germany have been incorporated into the analysis. The Supervisory Statement does not reinvent existing rules; it clarifies what are the supervisory expectations with regards to existing requirements.</p>

No.	Organisation name	Response to the public consultation question	Eiopa's comments
179	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q5.	Noted. Thank you for your comment.
180	German Association of Insured (BdV)	<p>Yes, we agree that focus shall be laid on insurers ("product manufacturers") and on intermediaries as well (cf. no. 2.20 of CP), on the outcomes as well as on the process itself of differential pricing (cf. no. 2.21 of CP), and on the necessary EU-wide supervisory convergence (cf. no. 2.24 of CP).</p> <p>We support that by this statement Eiopa does not intend to directly interfere into the pricing of the products, but to stress the necessity that processes are "sufficiently customer-centric, balancing the interests of the target market with the interests of the manufacturer" (cf. no. 2.21 and 2.26. of CP).</p>	Thank you for your comment. This has been further emphasised in the Supervisory Statement and on the Feedback Statement to the consultation.
	Organisation name	<p>Q7 – Do you agree that the following practices would result on unfair treatment of consumers: - Increasing the price of the insurance product at renewal stage based on the customer's low propensity to shop around (low probability of churn); - Increasing the price of the insurance product at renewal stage based on the customer's low price elasticity (also known as "willingness to pay"); - Advising or nudging consumers to buy one insurance product vs. another one because of very low initial on-boarding price, which then result into sudden, unexpected and significant price increases for consumers at renewal for reasons unrelated to risk or cost of service - Other types of differential pricing practices? Please explain.</p>	
181	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes, we agree with all the above stated practices.	Noted. Thank you for your comment.
182	Insurance and Reinsurance Stakeholder Group	<p>Yes, on the basis that they discriminate against those who are less inclined to shop around, and particularly are likely to disproportionately impact on vulnerable customers. Propensity to shop around should not of itself confer an advantage. Customer loyalty should not bring with it penalties linked to the passive nature of the customers.</p> <p>We do not consider that the application of price discounts (as opposed to the practice of differential pricing or price walking) necessarily results in unfair treatment of consumers. New business discounts can encourage consumers to try new products or providers, promoting new business</p>	Noted. Thank you for your comment. The Supervisory Statement has clarified that does not forbid the use of premium discounts, which nevertheless should also count with appropriate governance measures. The Supervisory Statement

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		growth and competition. The ability to request price discounts is also valuable for those who are most price sensitive and potentially financially vulnerable.	places a greater focus on renewals.
183	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Wir finden den Begriff der Fairness schwierig, solange es keine eindeutige Definition dafür gibt. Insofern erachten wir die vorgenannten Praktiken eher als intransparent gegenüber dem Kunden. Zumal der Kunde in der Regel nicht darauf hingewiesen wird, dass er – im dt. Versicherungsmarkt – bei einem Wechsel in die jüngste Tarifgeneration oftmals einen geringeren Beitrag bezahlen müsste (bei gleichzeitig meist besseren Leistungen). Daher sehen wir solche Praktiken aus Verbrauchersicht kritisch.	Thank you for your comment. The Supervisory Statement also highlights which differential pricing practices raise more supervisory concerns and provides examples of differential pricing practices which are considered not to meet the supervisory expectations with regards the existing requirements. However, the Supervisory Statement is also principle-based and offers sufficient flexibility to insurance manufacturers to adapt the product oversight and governance measures to the nature, scale and complexity of their business model.
184	BIPAR	<p>The above-mentioned practices could result on unfair treatment of consumers - for reasons already explained in responses to previous questions.</p> <p>BIPAR wants to underline here however that the EU legislative framework (ex: IDD level 1 and 2) currently ensure that consumers are treated fairly and allow product manufacturers and intermediaries to give commercial, marketing or underwriting discounts to consumers in order to try to acquire or retain them in the course of a commercial transaction. They can also freely determine their market position vis-à-vis their competitors and adjust the tariff accordingly, as long as this does not unfairly affect consumers.</p> <p>Applying price discounts (as opposed to the practice of differential pricing or price walking) does not mean unfair treatment of consumers. New business discounts can encourage consumers to try</p>	Thank you for your comment. The Supervisory Statement does not forbid the use of premiums discounts to attract and retain consumers. The focus is placed on the second and subsequent renewals. Moreover, while the Supervisory Statement focuses on renewals, EIOPA will nevertheless closely monitor the market and in the

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>new products or providers, promoting new business growth and competition. The perception of detrimental effects from differential pricing requires a proportionate approach.</p> <p>It may have to be explored whether the risk for the type of pricing tactics EIOPA is mentioning as potentially unfair may increase in contexts where insurances are “tied or bundled” into, for example app’s which offer “user experiences” and where almost “automatically” the insurance aspect is renewed without clear separate invoicing.</p> <p>EIOPA should perhaps also consider the possible underlying reasons why certain differential pricing practices, in certain markets, are used.</p> <p>Possible issues (for study) may be:</p> <ul style="list-style-type: none"> - Consolidation of insurers leading to decreasing level of competition among producers, leading to lack of capacity for certain risks - The use of non-risk related behavioural factors in pricing without clear disclosure towards customers. - Overregulation which reduces investments in innovation (in particular for smaller entrepreneurs) 	<p>future may also consider addressing differential pricing practices at the point of sale, including new business discounts or cross-selling and up-selling practices to existing customers.</p>
185	HUK-COBURG VVG	We agree with this opinion. Please refer to our response to Q2.	Noted. Thank you for your comment.
186	MACIF	<p>While MACIF does not implement nor support differential pricing techniques, on top of risk, policy and claims management cost, premiums paid by the policyholder are also intended to compensate for acquisition costs as well as for the cost of allocated capital.</p> <p>We question the legal basis used by EIOPA to qualify a practice as “unfair”. The notion of unfairness is subjective and a source of legal uncertainty.</p> <p>In addition, this notion as used by EIOPA is not sanctioned by European consumer law: the European directive on unfair terms in consumer contracts (Directive 93/13/EEC) prohibits unfair terms but specifies that “The assessment of the unfairness of terms shall not relate to the definition of the main subject matter of the contract or to the adequacy of the price and remuneration, on the one hand, and the services or goods to be provided in return, on the other, <u>provided that these terms are drafted in a clear and comprehensible manner</u>”.</p>	<p>Thank you for your comment. Please refer to the Feedback Statement of the consultation for a detailed analysis of the legal basis.</p>

No.	Organisation name	Response to the public consultation question	Eiopa's comments
		<p>A consumer informed of the price is therefore not entitled to challenge it on the grounds that it is abusive.</p> <p>Tariffs are not regulated in insurance. The less tariff freedom there would be, the greater the risk of aligning prices and the products and services offered, with a downward leveling of quality. From the point of view of macroeconomic principles, limiting tariff freedom could risk reducing the diversity of responses to consumer needs.</p>	
187	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q1.	Noted. Thank you for your comment.
188	German Association of Insured (BdV)	Yes, we agree. Cf. our comment on Q 2 for other types of differential pricing at the point of sale in general.	Noted. Thank you for your comment.
	Organisation name	Q8 - Do you agree that the IDD's Product Oversight and Governance requirements are an adequate tool for addressing the use of differential pricing practices?	
189	BETTER FINANCE - European Federation of Investors and Financial Services Users	Further clearance from Eiopa (to be implemented by national supervisors) would bring added value, particularly if differential pricing mechanisms would be spelled out.	Thank you for your comment.
190	Insurance and Reinsurance Stakeholder Group	<p>Yes, if supported by the use of measurements which are specific to the types of business in question, such as:</p> <ul style="list-style-type: none"> - actual premium/technical premium (AFTP) - premium differential between new business and the equivalent first renewal price - price being charged to any customer with tenure longer than one year relative to first renewal price <p>In addition, where intermediaries or other parties are also responsible for the price setting process, the responsibilities should also encompass their activities.</p> <p>However, due consideration should be taken to the POG Delegated Regulation that clarifies that</p>	We thank you for the comment. Eiopa introduced these as a set of examples to be used.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>“[t]he requirement to assess the product performance should [...] not be understood as an interference with the manufacturers' freedom to set premiums or as price control in any form.” (recital 8). Furthermore, any measurements should be respectful of the principle of subsidiarity and proportionality.</p> <p>It will be important to assess the adequacy, transparency and appropriateness of information provided to consumers in identifying where the real problem lies. A priority should therefore be to supervise if distributors obligation to provide the customer with information including any discounts (Art. 20.1 IDD) prior to contract is correctly applied.</p> <p>There are already different national and EU laws which cover this topic, notably provisions in national contract law and IDD requirements to act in the best interest of the client. Consideration should be given to how the different requirements will fit together.</p>	
191	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Die POG-Anforderungen sind sicherlich eine naheliegende Stellschraube für etwaige Anforderungen, die aus DPP resultieren. Wichtig ist allerdings, dass die Anforderungen hinreichend präzise und spezifisch sind, damit diese nicht bereits durch zusätzlich Dokumentation erledigt werden können, während sich an den tatsächlichen Geschäftspraktiken wenig/nichts ändert.	Thank you for your comment. The statement has been revised to specify further some information requirements. In particular, manufacturer should not test whether based on the information provided consumers clearly and more easily understand the usage of differential pricing practices.
192	BIPAR	<p>BIPAR believes that the IDD product Oversight and Governance requirements at level 1 and 2 are adequate tools for addressing the use of differential pricing practices. They are already quite detailed.</p> <p>As far as “manufacturers intermediaries” are concerned, it means that when determining the essential features and main elements of an insurance product, including its coverage, price, costs, risk, target market and compensation and guarantee rights, they have to ensure these products do not adversely affect customers in order to prevent or mitigate their detriment.</p>	Thank you for your comment. While EIOPA shares the view the requirements already covered possible risks for consumers which could emerge from differential pricing techniques, EIOPA is of the view that given

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		Also as explained by EIOPA under point 2.22 and to address the specific challenges arising from the use of AI system, the governance processes of product manufacturers foreseen in the IDD and POG Delegated Regulation, contain to a certain extent, several of the high- level AI governance principles developed by EIOPA's stakeholder group on digital ethics (e.g., human oversight, record keeping, transparency, fairness, proportionality etc.).	emerging risks further guidance is required.
193	HUK-COBURG VVaG	<p>We agree with this opinion in parts.</p> <p>(1) Based on the principle of the rule of law, interference with the insurer's sovereignty over pricing is only admissible if it is undertaken by the legislative authority, e.g. under the solvency framework, competition law, or consumer protection law. Fair pricing has to focus on the purpose of insurance, i.e. a fair price/performance ratio and a continuous capability to fulfil the insurance contracts.</p> <p>(2) POG is the formal framework for a correct and fair product and pricing development practice in line with consumer protection based on the applicable legal provisions. POG as well as ICS are impact assessment measures. POG has a limited purpose and does not provide any legal basis for interference with the insurer's sovereignty over products and pricing by the insurance supervisory bodies.</p>	Thank you for your comment. The statement clarifies that it does not aim at interfering with pricing but rather at ensuring that the process followed leads to good consumer outcomes.
194	Insurance Trade union Forena	Yes, to a certain point absolutely. At the same time, most companies use the tactic of buying new customers cheaply with various discounts and then collecting the money by raising the premiums at renewal. It's like that's what the companies do. Even though different national and EU laws already cover these topics. Notably provisions in national contract law and the IDD requirement to act in the best interests of the client. It needs to be fully considered how these different provisions all fit together and how they are followed up. But still there are areas and issues that have to be highlighted, for example discrimination and gender.	Thank you for your comment. Indeed EIOPA highlighted in the statement that the statement itself does not impact existing national regulatory requirements.
195	MACIF	The rules in force are sufficiently effective to address the use of differential pricing practices. New constraints risk undermining mutualisation and competition.	Thank you for your comment. However, EIOPA is of the view that, given these practices are increasing, further supervisory guidance (i.e., no new rules) is required.
196	GDV - Gesamtverband der deutschen	No. The insurer must always act honestly, fairly and professionally in its sales activities towards policyholders in their best interest (cf. Art. 17 (1) IDD). The POG regulations are not the direct connecting factor. These presuppose a legally compliant orientation of the business operations. Against this background, however, there is no need for further POG supplements. Otherwise, all	Thank you for your comment. Please note that the statement only applies for supervisory convergence

No.	Organisation name	Response to the public consultation question	EIOPA's comments
	Versicherungswirtschaft e.V.	legal regulations would have to be listed here expressis verbis and, if necessary, explained in more detail. This would be, however, impractical and would not serve the purpose. The supervisory authority, on the other hand, already has sufficient means with the above-mentioned legal provisions to take action against possible abuses, even without necessarily having to refer to POG regulations.	purpose – i.e., it does not add new requirements. Supervisors should apply the statement when supervising differential pricing practices compliance with POG requirements.
197	German Association of Insured (BdV)	Yes, we agree (cf. no. 3.1 to 3.7 and 3.10, p. 12/13, of CP).	Thank you for your comment.
	Organisation name	Q9 - Do you agree that adequate governance measures should be put in place for the product approval process in order to ensure that differential pricing practices do not have a detrimental impact for consumers?	
198	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes, Art. 4 and 5 of the IDD Delegated Regulation on product oversight and governance must be adequately implemented and supervised.	Thank you for your comment.
199	Insurance and Reinsurance Stakeholder Group	Yes, but see Q7 above re discounts, and note Q8 re the use of appropriate measurements.	Thank you for your comment.
200	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Da DPP bereits heute im dt. Versicherungsmarkt in Teilen vorhanden sind, ist vermutlich eine entsprechende zusätzliche Regulatorik erforderlich, wenn der Einsatz von DPP reduziert werden soll. Aus Verbraucherschutzsicht begrüßen wir das.	Thank you for your comment. EIOPA is of the view that no additional requirements are required at the EU-level. Rather existing requirements already cover these practices; hence, why EIOPA provided supervisory guidance
201	BIPAR	IDD provisions are sufficient in terms of regulation. Supervision and guidance should be the priority in order to ensure compliance and market practices that lead to the proper balance between beneficial effects for the customers and financial stability of the market. Further POG requirements may create new challenges for product developments initiatives among	Thank you for your comment. The statement reflect that need to provide more supervisory guidance rather

No.	Organisation name	Response to the public consultation question	Eiopa's comments
		manufacturers in a context where we have already seen a reduced dynamic of new products being developed and launched on the market.	than introducing new requirements.
202	HUK-COBURG VVG	<p>In our opinion, national supervisory authorities should first undertake studies or interviews if deemed necessary, before any potential additional governance measures could be put in place based on legal provisions. As mentioned in our response to Q2, we are not aware of any such studies taking place in Germany.</p> <p>Topics for the studies could be the mentioned practices such as pricing methods, transparency about rating factors, rules of premium adjustments for existing insurance policies and their conformity with legal provisions, insurance conditions and ethical requirements.</p> <p>Corresponding laws and measures already exist. We have provided examples in our response to Q1. We think that it should be verified first whether they are complied with and appropriate.</p> <p>In our opinion, implementing additional supervisory measures without undertaking prior studies is risky and not proportionate.</p> <p>The national supervisory authorities should always act in an informed, proportionate way based on principles and according to verifiable criteria.</p> <p>Some examples of pricing practices that we consider as fair can be found in response to Q11.</p>	Thank you for your comment. Some national authorities have carried out studies and reported issues to Eiopa. Hence, why Eiopa decided to issue this supervisory statement based on POG to allow for flexible supervision based on where these practices have emerged/been observed.
203	Insurance Trade union Forena	The discussion must continue. We are not taking a position on the requirements of regulations and intervention regarding pricing, IDD and other national legal frameworks are in place. But obviously the industry needs to have a general discussion and the topic should be followed up.	Thank you for your comment. Eiopa supports ongoing dialogue with stakeholders.
204	MACIF	The existing system is already effective. New constraints risk undermining mutualisation and competition.	Thank you for your comment. Please note that the statement does not introduce new regulatory requirements.
205	GDV - Gesamtverband der deutschen Versicherungswirts- chaft e.V.	See response Q8.	Thank you for your comment.
206	German Association of Insured (BdV)	Yes, we agree (cf. no. 3.8 and 3.9, p. 12/13, of CP). Insurers must ensure that all governance requirements of the product approval process are fulfilled following to article 4 of EU/2017/2358 (POG DelReg).	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
	Organisation name	Q10 - Do you agree with the governance measures described above for the product approval process?	
207	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes, we agree with EIOPA's assessment.	Thank you for your comment.
208	Insurance and Reinsurance Stakeholder Group	Yes.	Thank you for your comment.
209	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Inhaltlich stimmen wir diesen Maßnahmen zu. Allerdings stellt sich uns nach wie vor die Frage, ob diese hinreichend spezifisch und vor allem auch durch den Markt messbar sind. Letztlich können diese eher qualitativen Anforderungen ausschließlich durch die lokale Aufsicht in einem umfassenden Review einzelner Anbieter überprüft werden. Dies ist mit einem nicht unerheblichen Aufwand für den Regulator verbunden und es erscheint zumindest zweifelhaft, wie detailliert dieser in die Pricing-Verfahren und -Strukturen einsteigen kann und wird.	Thank you for your comment. While we understand your concerns, the supervisory statement follows a principles-based approach in line with POG. Supervisory authorities are also given flexibility to adapt, following a risk-based approach, their supervisory activities to the situation in their respective markets.
210	BIPAR	See also response to Question 8	Thank you for your comment.
211	HUK-COBURG VVaG	Please refer to our response to Q9 and Q11.	Thank you for your comment.
212	MACIF	The existing system is already effective. New constraints risk undermining mutualisation and competition.	Thank you for your comment. The supervisory statement does not introduce new requirements.
213	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q8.	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
214	German Association of Insured (BdV)	Yes, we agree (cf. no. 3.13, p. 14, of CP).	Thank you for your comment.
	Organisation name	Q11 - Which other governance measures could be established for the approval process to ensure that differential pricing practices do not have a detrimental impact for consumers?	
215	BETTER FINANCE - European Federation of Investors and Financial Services Users	Insurance's pricing mechanisms must comply with the principles of ethical and trustworthy use of AI in the insurance sector.	Thank you for your comment. This is already reflected in the statement and a reference to the principles has also been added.
216	Insurance and Reinsurance Stakeholder Group	See Q8 above.	Thank you for your comment.
217	BIPAR	See also response to Question 8	Thank you for your comment.
218	HUK-COBURG VVaG	<p>Amongst others, we consider the following examples of pricing practices as fair – in addition to our previous remarks:</p> <p>(Differentiation factors)</p> <p>Besides risk and cost-based differentiation factors, non-risk-based differentiation factors should also be admissible if they are justified by a factual reason. Only differentiation factors that are banned by law should be deemed as inadmissible or subject to regulation. The legal reservation is a consequence of the rule of law.</p> <p>(Risk differentiation)</p> <p>Customers with a good risk profile should pay a lower price than customers with a bad risk profile.</p> <p>(Principle-based pricing)</p> <p>Insurers should undertake pricing based on principles.</p> <p>(Transparency)</p> <p>In the insurance conditions, insurers could describe the principles by which premiums for new</p>	Thank you for your comment providing these examples of what you deem as fair pricing techniques.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>policies and premium adjustments for existing policies are calculated in broad terms, using wording that consumers can understand. Nevertheless, the only point would be to give the policyholder a rough idea. The calculation of insurance tariffs is highly complex, requires expert knowledge and must be protected as the insurer's trade secret. Additionally, anti-trust laws set boundaries. Finally, information as to which rating factors are used should be contained in the insurance proposal and the insurance policy.</p> <p>(Conformity)</p> <p>Additionally, to risk-based pricing, further elements of premium calculation are applied on a case by case basis. The distinction between risk-based pricing and additional competitive price determination is fluid. The compliance with legal provisions, the instructions from the supervisory authority etc. should be incorporated into the impact assessment.</p> <p>(Timeliness and accuracy)</p> <p>Insurers should define the time intervals in which they check the adequacy of the insurance premiums for long-term customers. It might be necessary to price the insurance premiums for new policies for just one year, i.e. the term of the motor insurance, although the average tenure of customers is longer. From an actuarial viewpoint, the 1-year calculation can be required due to the dynamics in the claims costs development. The 1-year calculation period renders the premiums for new policies especially competitive, but also leads to a frequent premium calculation and thus to a possible premium increase in the following insurance term. If insurers were to calculate the premiums for new policies for a period of, say, 3 years, they would have to ask for higher premiums right from the start – this would be disadvantageous for the competitive position and the new customers as they would have to pay for premium portions of the following insurance terms right from the start of the policy. In our opinion, the 1-year calculation is not detrimental for existing customers if adequate accompanying measures are taken. Additionally, a 1-year calculation is more precise than one for several years – especially in volatile times.</p> <p>New business tariff should be open to existing customers. Providing existing customers access to the new business tariff by switching the tariff is common practice in Germany and well-known to policyholders. By switching the tariff, an existing customer secures the same conditions as a new customer.</p> <p>(Generally accepted actuarial principles)</p>	

No.	Organisation name	Response to the public consultation question	EIOPA's comments
		<p>These rules should be applied. Please also refer to our response to Q1.</p> <p>(Guardrails for premium adjustment for policies in force)</p> <p>Each insurer should define the principles based on which premium adjustments are undertaken for existing insurance policies in the policy conditions on its own responsibility. Thus, the clause and the realisation of the premium adjustment can be verified by supervisory authorities and courts.</p> <p>(Responsibility)</p> <p>Responsibility for the development of products and tariffs lies with the insurer's management. They should define the premiums for new business, the rating factors, the premium adjustments for existing policies as well as the insurance conditions. Employees that are involved in the product and tariff development should have the necessary technical expertise and should regularly attend further training.</p> <p>(Impact assessment)</p> <p>The tariff and product development should be embedded in the impact assessment. If legal provisions are not yet in place, e.g. in relation to new technologies such as BDAI, the impact assessment should be complemented by ethical considerations and reasons.</p> <p>(Flexibility)</p> <p>Requirements and assessments of admissible and inadmissible differentiation can change. Insurers should be able to react with flexibility – based on the applicable law and their sovereignty over pricing.</p> <p>(Competition)</p> <p>Fair competition and adequacy of the tariffs should be promoted by supervisory measures and not be obstructed by rigid measures such as a price cap for existing insurance policies. Dumping prices in new business are inadmissible under competition law.</p>	
219	MACIF	We do not identify any additional measures to be established in relation to the current monitoring and practices of the French market.	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	Eiopa's comments
	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q8.	Thank you for your comment.
220	German Association of Insured (BdV)	<p>Insurers must ensure adequate governance measures that the "GOVERNANCE PRINCIPLES FOR AN ETHICAL AND TRUSTWORTHY AI IN THE EUROPEAN INSURANCE SECTOR" are fully implemented (with the particular focus on the principles of fairness and non-discrimination, of transparency and explainability and of human oversight; cf. A report from Eiopa's Consultative Expert Group on Digital Ethics in insurance, June 2021, p. 8).</p> <p>Eiopa website: https://www.eiopa.europa.eu/media/news/eiopa-publishes-report-artificial-intelligence-governance-principles_en</p> <p>Additionally we stress that from an actuarial point of view differential pricing practices may lead to distorted premium calculations, i.e. if some customers get rather strong premium reductions, at the same time the premiums for other customers have to be increased ever stronger. Only by doing so, the actuarial calculation of the risk pool can be maintained in a balance, in other words: the fundamental "law of the large numbers" will always have to be respected for appropriate insurance tariff calculations, and therefore differential pricing practices must not be overdone (cf. our comment to Q 3).</p>	Thank you for your comment. Reference to the principles has been added in the revised supervisory statement.
		Q12 - Do you agree with the governance measures described above for the target market?	
221	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes, see our comment on Q2 in relation to the different practices observed. Yes, we agree.	Thank you for your comment.
222	Insurance and Reinsurance Stakeholder Group	Yes.	Thank you for your comment.
223	Finanztip Verbraucherinforma	Siehe Q10	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
	tion GmbH – ein Unternehmen der Finanztip Stiftung		
224	BIPAR	See also response to Question 8	Thank you for your comment.
225	HUK-COBURG VVaG	We agree with the opinion regarding the target market as already described in POG. Interference with the insurers' sovereignty over products and pricing is only legitimate based on a law. POG is not suitable for this.	Thank you for your comment. Please note that the statement looks at the pricing process rather than at the pricing itself.
226	MACIF	No .The current measures are already sufficient.	Thank you for your comment. EIOPA is of the view that given the increasing usage of such practices and emerging risks additional guidance is needed.
227	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q8.	Thank you for your comment.
228	German Association of Insured (BdV)	Yes, we agree (cf. no. 3.14 and 3.15, p. 15, of CP). Insurers must ensure that all governance requirements with regard to target markets are fulfilled following to article 5 of EU/2017/2358 (POG DelReg).	Thank you for your comment.
	Organisation name	Q13 - Which other governance measures could be established for the target market to ensure that differential pricing practices do not have a detrimental impact for consumers?	
229	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes, see our comment on Q2 in relation to the different practices observed.	Thank you for your comment.
230	Insurance and Reinsurance Stakeholder Group	See Q8 above.	Thank you for your comment.
231	BIPAR	See also response to Question 8	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
232	HUK-COBURG VVaG	Please refer to our response to Q12.	Thank you for your comment.
233	MACIF	There is no need for additional measures.	Thank you for your comment. See answer to comment above.
234	GDV - Gesamtverband der deutschen Versicherungswirts- chaft e.V.	See response Q8.	Thank you for your comment.
235	German Association of Insured (BdV)	Additional focus should be laid on possibly enhanced cross and up selling practices (cf. our comment on Q 2). It must be ensured by the insurers that the intermediaries fully respect and implement the test of demands and needs of the customers and the comprehensive documentation of any personalized recommendations following to article 20 (1) to (4) of IDD (cf. Report from EIOPA's Consultative Expert Group on Digital Ethics in insurance: "Artificial Intelligence Governance Principles: Towards Ethical and Trustworthy Artificial Intelligence in the European Insurance Sector", published in June 2021, Chap. VI: Fairness and Non-Discrimination, p. 21).	Thank you for your comment. While the Supervisory Statement focuses on differential pricing practices applied repeatedly at the renewal stage, EIOPA will nevertheless closely monitor the market and in the future may also consider specifically addressing differential pricing practices at the point of sale, including new business discounts or cross-selling and up-selling practices to existing customers.
	Organisation name	Q14 - Do you agree with the governance measures described above for product testing?	
236	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes we agree.	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	Eiopa's comments
	Insurance and Reinsurance Stakeholder Group	Yes.	Thank you for your comment.
237	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Siehe Q10	Thank you for your comment.
238	BIPAR	See also response to Question 8	Thank you for your comment.
239	HUK-COBURG VVaG	We agree with this opinion. Nevertheless, measures should not only be aimed at the non-risk-based pricing. They should aim at all pricing mechanisms, risk-based and non-risk-based. In addition, service commitment and pricing must be considered together as stipulated in POG. Incidentally, other control measures such as ICS already exist.	Thank you for your comment. However, at this stage Eiopa is looking only into non-risk-based pricing, but in the future indeed it may also assess underwriting risk-based pricing practices in insurance.
240	MACIF	No .The current measures are already sufficient.	Thank you for your comment. See previous answers.
241	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q8.	Thank you for your comment.
242	German Association of Insured (BdV)	Yes, we agree (cf. no. 3.17 to 3.19, p. 16, of CP).). Insurers must ensure that all governance requirements with regard to product testings are fulfilled following to article 6 of EU/2017/2358 (POG DelReg).	Thank you for your comment.
		Q15 - Which other product testing governance measures could be established to ensure that differential pricing practices do not have a detrimental impact for consumers?	
243	BETTER FINANCE - European Federation of Investors and Financial Services Users	The measures outlined in the Supervisory Statement are sufficient.	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
244	Insurance and Reinsurance Stakeholder Group	See Q8 above.	Thank you for your comment.
245	BIPAR	See also response to Question 8	Thank you for your comment.
246	HUK-COBURG VVaG	Please refer to our response to Q14.	Thank you for your comment.
247	MACIF	There is no need for additional measures.	Thank you for your comment. See previous answers.
248	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q8.	Thank you for your comment.
249	German Association of Insured (BdV)	We think that the measures outlined in no. 3.20 (cf. p. 16, of CP) are sufficient.	Thank you for your comment.
	Organisation name	Q16 - Do you agree with the governance measures described above for product monitoring and review?	
250	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes we agree.	Thank you for your comment.
251	Insurance and Reinsurance Stakeholder Group	Yes.	Thank you for your comment.
252	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Siehe Q10	Thank you for your comment.
253	BIPAR	See also response to Question 8	Thank you for your comment.
254	HUK-COBURG VVaG	Please refer to our response to Q14.	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
255	MACIF	No .The current measures are already sufficient.	Thank you for your comment. See previous answers.
256	GDV - Gesamtverband der deutschen Versicherungswirts- chaft e.V.	See response Q8.	Thank you for your comment.
257	German Association of Insured (BdV)	Yes, we agree (cf. no. 3.21 and 3.22, p. 16/17, of CP). Insurers must ensure that all governance requirements with regard to product monitoring and review are fulfilled following to article 7 of EU/2017/2358 (POG DelReg).	Thank you for your comment.
	Organisation name	Q17 - Which other governance measures could be established for product monitoring and review to ensure that differential pricing practices do not have a detrimental impact for consumers?	
258	Insurance and Reinsurance Stakeholder Group	<p>We suggest that adequate governance measures should include clear ongoing review of measures such as APTP, differentials between new business and first renewal price, and renewal price relative to first renewal price. This information should be available to (NCAs)) and, to the extent that it indicates ongoing unfair treatment of consumers, an alternative regulatory approach should be considered, respecting the principle of proportionality and subsidiarity.</p> <p>Review requirements should also require undertakings to identify other pricing differentials beyond tenure and to demonstrate how their approach is delivering fair value to different cohorts of customers. This is an important step to address the possibility of undertakings taking advantage of consumers' behavioural biases, using advanced data analysis and AI techniques.</p> <p>A key area for NCAs to monitor in their use of information provided by undertakings is inconsistencies between undertakings in their definitions of fairness and the way in which they would implement change. This possibility may lead to a need for guidance in relation to specific aspects of fairness to reduce scope for inconsistencies in product monitoring and review.</p> <p>The Head of Actuarial Function in relevant undertakings could be required to have a specific role in their underwriting opinion to provide an opinion on fairness of pricing as between different cohorts of customers.</p>	<p>Thank you for your comment. However, given this is supervisory guidance reporting requirements cannot be set. EIOPA will take into account this useful suggestion in future work and national competent authorities may also decide to include some reporting requirements.</p> <p>EIOPA has also added examples of some indicators which could be monitored.</p>
259	BIPAR	See also response to Question 8	Thank you for your comment.
260	HUK-COBURG VVaG	Please refer to our response to Q14.	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
261	MACIF	There is no need for additional measures.	Thank you for your comment. See answer above.
262	GDV - Gesamtverband der deutschen Versicherungswirts- chaft e.V.	See response Q8.	Thank you for your comment.
263	German Association of Insured (BdV)	Cf. our comment on Q 13 on cross and up selling practices.	Thank you for your comment.
Q18 - Do you agree with the documentation governance measures described above?			
264	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes we agree.	Thank you for your comment.
265	Insurance and Reinsurance Stakeholder Group	Yes.	Thank you for your comment.
266	Finanztip Verbraucherinforma- tion GmbH – ein Unternehmen der Finanztip Stiftung	Siehe Q10	Thank you for your comment.
267	BIPAR	See also response to Question 8	Thank you for your comment.
268	HUK-COBURG VVG	Please refer to our response to Q14.	Thank you for your comment.
269	MACIF	The current measures are already sufficient.	Thank you for your comment see answer above.
270	GDV - Gesamtverband der deutschen Versicherungswirts- chaft e.V.	See response Q8.	Thank you for your comment

No.	Organisation name	Response to the public consultation question	EIOPA's comments
271	German Association of Insured (BdV)	Yes, we agree (cf. no. 3.23 and 3.24, p. 17, of CP).	Thank you for your comment.
	Organisation name	Q19 - Which other documentation governance measures should be established to ensure that differential pricing practices do not have a detrimental impact for consumers?	
272	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes we agree.	Thank you for your comment.
273	BIPAR	See also response to Question 8	Thank you for your comment.
274	HUK-COBURG VVaG	Please refer to our response to Q14.	Thank you for your comment.
275	MACIF	There is no need for additional measures.	Thank you for your comment.
276	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q8.	Thank you for your comment.
277	German Association of Insured (BdV)	Insurers must ensure that all governance requirements of documentation are fulfilled following to article 9 of EU/2017/2358 (POG DelReg).	Thank you for your comment.
		Q20 - Do you agree with the governance measures described above for the distribution channels?	
278	BETTER FINANCE - European Federation of Investors and Financial Services Users	Yes we agree.	Thank you for your comment.
279	Insurance and Reinsurance Stakeholder Group	Yes.	Thank you for your comment.
280	Finanztip Verbraucherinforma	Siehe Q10	Thank you for your comment.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
	tion GmbH – ein Unternehmen der Finanztip Stiftung		
281	BIPAR	It must be underlined that insurance intermediaries can only inform clients on renewals and price increases linked to differential pricing practices if they have received the information from manufacturers. Intermediaries can't be made liable via the statement for information they don't decide on or simply don't have.	Thank you for your comment. We have further reflected this into the statement highlighting that the intermediaries can only inform the client when aware.
282	HUK-COBURG VVaG	Please refer to our response to Q9 and Q11.	Thank you for your comment.
283	MACIF	The current measures are already sufficient.	Thank you for your comment.
284	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	See response Q8.	Thank you for your comment.
285	German Association of Insured (BdV)	Yes, we agree (cf. no. 3.25 and 3.26, p. 17/18, of CP). Insurers and distributors must ensure that all governance requirements of distribution channels (sales arrangements, reciprocal information and obligatory documentation) are fulfilled following to articles 10 to 12 of EU/2017/2358 (POG DelReg).	Thank you for your comment. We have revised the supervisory statement to reflect that the distribution strategy needs to be implemented in compliance with the one defined by the insurance product manufacturer.
		Q21 - Which other governance measures could be established for the distribution channels to ensure that differential pricing practices do not have a detrimental impact for consumers?	
286	BETTER FINANCE - European Federation of Investors and Financial Services Users	We recommend specifying that all governance requirements related to differential pricing mechanisms must be abided by both manufacturers and distributors of insurance products.	Thank you for your comment. This has been clarified in the revised supervisory statement.

No.	Organisation name	Response to the public consultation question	EIOPA's comments
287	BIPAR	See response to Question 8	Thank you for your comment.
288	MACIF	There is no need for additional measures.	Thank you for your comment.
289	GDV - Gesamtverband der deutschen Versicherungswirts- chaft e.V.	See response Q8.	Thank you for your comment.
290	German Association of Insured (BdV)	The Supervisory Statement shall explicitly stress that intermediaries “manufacturing insurance products” (following to article 3 of EU/2017/2358 POG DelReg) will have to fulfill all governance requirements related to differential pricing practices as manufacturers and as distributors.	Thank you for your comment. EIOPA specified that distributors should continue to comply with POG requirements even when differential pricing practices are used. However, we have not differentiated between intermediaries and insurers as the statement is based on POG and follows the approach therein where they are not differentiated but rather compliance needs to be ensured by both in their respective roles (manufacturer / distributor).

3. Impact Assessment questions

No.	Organisation name	Response to the public consultation	EIOPA's comments
		Q1 -Do you agree with the analysis of costs and benefits?	
291	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	Die Nutzenabwägung ist für uns nachvollziehbar und wägt die Chancen und Risiken adäquat ab. Insofern haben wir hierzu keine weiteren Anmerkungen.	EIOPA thanks you for the support.
292	HUK-COBURG VVaG	<p>Regarding option 1: No action (maintain status quo)</p> <p>Regarding option 2: Develop a thematic review on differential pricing practices</p> <p>Regarding option 3: Develop a Supervisory Statement on differential pricing practices</p> <p>Regarding option 4: Develop a warning on differential pricing practices</p> <p>Regarding option 5: Ban on differential pricing practices</p> <p>We support option 2. Contrary to EIOPA, we currently do not support option 3.</p> <p>National supervisory authorities should start or continue to acquire up-to-date and relevant subject-related knowledge regarding pricing if deemed necessary and if they have not yet done so. Enough space should be given to discussions with well-informed stakeholders.</p> <p>We also think that a study about national legislation on pricing is necessary. The statement in the consultation paper that every form of differential pricing is admissible, including marketing discounts and underwriting discounts, is not entirely correct – at least not according to German law.</p> <p>We also deem it necessary to consider possible differences regarding national circumstances. If the same measures are applied to different circumstances that cannot be compared, this will inevitably lead to distortions. Examples for different circumstances: Renewal vs. automatic prolongation of the policy</p>	<p>Thank you for your comment. EIOPA is of the view that Option 2 may not be fit for purpose. Based on the evidence available, including the one gathered during the public consultation, the supervisory statement is considered to be an adequate tool to provide some supervisory guidance on how to converge when monitoring these practices. It can be complemented by thematic reviews at national level. EIOPA will also continue to monitor market and regulatory developments in this area.</p>

		<p>After the reviews, measures should be thoroughly weighed against each other in an impact assessment in order to not cause any undesired effects. Sovereignty over products and pricing lies with the insurers.</p> <p>Possible measures – whether by expressing an expectation or in the form of binding provisions – should be taken based on principles, in a proportionate way and according to verifiable criteria. The focus should especially be on fairness, transparency, legal compliance, continuous capability to fulfil insurance contracts, but also on ensuring fair competition – not only on consumer protection. An isolated focus on consumer protection falls short of the legitimate interests of the community of insured persons, the general public and the insurers. Fair competition is necessary and cannot be substituted by the supervisory authority's interference with pricing. Fair competition is practised consumer protection.</p> <p>Interference with the insurers' sovereignty over products and pricing is only legitimate based on a law – if at all. POG does not suffice for this.</p> <p>In our opinion, expressing an expectation about certain select topics based on applicable law could be helpful to ensure a uniform process-related procedure within the market if necessary. This is especially applicable to new topics and new technologies such as BDAI if ethical interests also play an important role and no (legal) standards have yet been developed. Framework conditions under anti-trust and competition law must be specifically considered when expressing an expectation in regard to pricing since there is a risk of equalising the market.</p> <p>Binding provisions can be risky especially in connection with pricing, the innermost core area of the insurance business. In our opinion, they can only come into consideration if expressing an expectation is not sufficient and if they are legitimised by sufficient legal basis. This is the only way to avoid inadmissible interference with the insurer's sovereignty over products and pricing or even distortion of the insurance market. This especially applies to the current volatile environment that is affected by climate change, Russia's war on Ukraine, energy and material shortage and high inflation. It is not always possible to clearly distinguish between risk-based and non-risk-based pricing, they must be considered together.</p> <p>In our opinion, a price cap for existing insurance policies like in the UK and Ireland is incompatible with German law and a high risk and disadvantage for all stakeholders. Especially in volatile times, considering increasing claims costs due to high inflation, material supply problems, Russia's war on Ukraine and the pandemic, this could endanger the continuous capability to fulfil the insurance</p>	
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		<p>contracts and lead to financial difficulties for individual insurers or the whole insurance industry.</p> <p>We do not support option 1. The explanations regarding option 1 do not apply to the German motor insurance market. The German insurance supervisory authority is concerned with differentiation by age and BDAI amongst other things.</p> <p>We do not support options 3 – 5. We currently cannot detect any sufficient basis for a well-informed decision of national supervisory authorities regarding binding provisions for pricing. For the time being, thematic reviews should be undertaken or continued.</p> <p>Options 4 and 5 are subject to general legal and actuarial reservations.</p>	
293	MACIF	<p>The positive points lack the fact that the current system is sufficiently protective.</p> <p>The risks of harming mutualisation and free competition with an over regulation are missing.</p>	<p>Thank you for your comment. EIOPA highlights the current regulatory system already covers the use of differential pricing practices. The Supervisory Statement aims to clarify which are the supervisory expectations concerning the existing legislation.</p> <p>EIOPA does not agree with the fact that the supervisory statement would hurt mutualisation as in most instances when differential pricing practices are applied they relate to non-underwriting risk factors and they aim mostly at higher profit generation.</p>
294	German Association of Insured (BdV)	<p>Yes, we generally agree. But we do not agree with EIOPA's conclusions on possible costs for consumers in options 3 and 5. We do not believe that - due to a Supervisory Statement or even a ban on differential pricing practices - consumers will have less or significantly less opportunities to "shop around" with regard to insurances. Strong competition will always be enhanced by tariffs</p>	<p>Thank you for your comment for the useful inputs which are duly noted by EIOPA.</p>

		<p>comparisons websites, and general strong market competition like in motor insurances continues to put pressure on premiums anyway.</p> <p>Moreover the phenomenon of “shopping around” should not be considered per se as something positive for the consumers, because it focusses too strongly on the amount of the premium. Instead of this the “small print” is more important than the amount of premium, and consumers should be made aware of this linkage. "Best" consumer protection does not entail the offer neither of the cheapest product nor of the one with the largest risk coverage possible and therefore the most expensive product, but the offer which combines individually basic and necessary risk coverage and the appropriate amount of premiums. There should be neither any protection gaps nor any redundancy of risk coverage. The core requirement of a "balanced and consumer centric product review" should be the appropriate balance of risk coverage and of the amount of the premium.</p> <p>Additionally we stress that from an actuarial point of view differential pricing practices may lead to distorted premium calculations, i.e. if some customers get rather strong premium reductions, at the same time the premiums for other customers have to be increased ever stronger. Only by doing so, the actuarial calculation of the risk pool can be maintained in a balance, in other words: the fundamental "law of the large numbers" will always have to be respected for appropriate insurance tariff calculations, and therefore differential pricing practices must not be overdone.</p>	<p>While EIOPA shares some of the concerns highlighted – e.g., high focus on premiums – we opted to continue for the supervisory statement as the most supported and balanced policy option.</p>
		Q2 - Do you agree with the policy option chosen by EIOPA?	
295	Deutsche Aktuarvereinigung e.V.	<p>We want to point out, that for actuaries the clarity of the regulation is more important than the policy option chosen.</p> <p>See answers above.</p>	<p>Thank you for your comment. The statement has been further revised to provide more clarity and guidance. However, the IDD and the POG DR are principles-based requirements allowing manufacturers to determine the most suitable and adequate approach to implemented relevant requirements taking into account the nature, scale and complexity of their business model.</p>

296	Insurance and Reinsurance Stakeholder Group	<p>Stiftung Yes, for the following reasons:</p> <ul style="list-style-type: none"> • We are supportive of measures aimed at ensuring the fair treatment of consumers, and particularly those consumers who are vulnerable. • We would caution against the introduction of measures which would act to reduce competition, or to standardise product offerings, either of which would not be in the interest of the consumer and would go against EU competition law as well as insurance specific regulation like the Solvency II Directive (Article 21) and the POG delegated Regulation (recital 8). We believe that the free market tends to be a good regulator of economic activity, and suggest that a demonstrably effective POG process together with suitable consumer communications are the best way to achieve fairness for consumers. • We also note that differential pricing is evident for product lines which may be commercially marginal but are socially important such as motor and home. A ban on differential pricing practices may cause insurers to exit these lines and reduce competition which would not be in the interest of consumers. • New business prices may be set at a level which is loss making (or at a minimum at a lower margin than the overall portfolio). This cost is recouped at renewal, potentially over several years. Explicit bans on differential pricing may limit an undertaking's ability to recoup the loss at renewal and would likely result in a redistribution of premium between new business and renewing customers. This may mean that premiums become less affordable for those most financially vulnerable. <p>We suggest that adequate governance measures as part of product reviews should include clear ongoing review of measures such as APTP, premium differential between new business and equivalent first renewal price, and renewal price relative to first renewal price. This information should be available to NCAs and, to the extent that it indicates ongoing unfair treatment of consumers, an alternative and more prescriptive regulatory approach should be considered.</p>	<p>Thank you for your comment and for the support an useful feedback.</p> <p>The approach proposed by EIOPA aims at not impacting competition, price-setting and the free market. In fact, it does not ban practices per se but rather it requires insurance product manufacturers to ensure – and prove – that if they implement these practices they should lead to good consumer outcomes and not cause detriment (e.g., significantly higher and unjustified price increases).</p> <p>We also welcome the suggestions made by the IRSG on indicators to monitor – these have been included as examples in the statement.</p>
297	Finanztip Verbraucherinformation GmbH – ein Unternehmen der Finanztip Stiftung	<p>Wie mehrfach ausgeführt, kommt es aus unserer Sicht weniger auf die gewählte Option für die regulatorischen Maßnahmen an. Viel wichtiger ist aus unserer Sicht die Frage der Konkretisierung der Maßnahmen, um Interpretationsspielräume auf der Anbieterseite weitgehend einzuschränken. Des Weiteren ist es essenziell, dass DPP auch durch den Markt überprüft und nachgehalten werden kann. Sollte dies ausschließlich durch entsprechende Prüfungen seitens der Aufsicht</p>	Thank you for your comment.

		möglich sein, bestehen gewisse Zweifel, ob dies bei der Vielzahl der Anbieter in entsprechender Breite und Tiefe fortlaufend sichergestellt werden kann.	
298	HUK-COBURG VVG	Please refer to our response to Q1 concerning the analysis of costs and benefits.	Thank you for your comment.
299	MACIF	In the immediate future we do not see the need for a supervisory statement (level 3). The policy option should be adjusted according to the results of the soon to come studies of European market practices and its quantitative impact on consumers.	Thank you for your comment. EIOPA carefully considered your view and taking into account other stakeholders suggested EIOPA opted for stronger measures, EIOPA decided to continue pursuing Option 3 as the least invasive and most balanced option, taking into account the usage of these practices is increasing and Members continue reporting to EIOPA possible issues.
300	GDV - Gesamtverband der deutschen Versicherungswirtschaft e.V.	Some of the studies listed in the consultation have not yet been finalized or published. We suggest waiting for the results of the studies - and therefore advocate for policy option 2.	Thank you for your comment. In the meantime some of these studies have been finalized providing stronger evidence to EIOPA to pursue Option 3. At this stage Option 3 is also the least intrusive and most balanced Option addressing the issue whilst allowing for insurance manufacturers' freedom to adopt these practices as long as they lead to good consumer outcomes.
301	German Association of Insured (BdV)	Yes, we agree - with the exception of possible costs for consumers in option 3, as pointed in our comment above on Q 1 of the impact assessment.	Thank you for your comment.

4. Other comments received

No.	Organisation name	Response to the public consultation	Eiopa's comments
302	Actuarial Association of Europe	The AAE is very pleased that Eiopa is working with this important topic on differential pricing practices in non-life insurance lines of business. We find many of the questions raised by Eiopa highly relevant, like better understanding the market differences, use of better data, the end consumer need and fairness and the relation to existing conduct regulation and supervision. Anyway we also see that some of the topics are more clear, like that it is essential to recognize a clear difference between differential pricing, but also that some are more complex, like two clients with the same risk characteristics should be paying the same premium for the same product. We are currently working in AAE with these topics in order to discuss these in more depth in future meetings with Eiopa	Thank you for your comment and for the support and Eiopa looks forward to further exchanging with the AAE on this topic.
303	Anonymous Intermediary	<p><u>ANONYMOUS SPANISH Impressions of a small insurance distributor with an employee with a physical office open to the public with more than 20 years in this sector.</u></p> <p><u>Translated with www.DeepL.com/Translator (free version)</u></p> <p>1-1- Generalmente en España los precios son más baratos en nueva contratación en Auto (seguro obligatorio y masa) que en la cartera (clientes que llevan más años), osea que se trata peor al cliente fiel que lleva más años que al nuevo, aunque el riesgo sea el mismo. Las compañías normalmente no dejan hacer seguro nuevo a un cliente que ya tiene asegurado ese riesgo en la misma compañía.</p> <p>Por tanto, ante un mismo riesgo (generalmente es en Auto) suele pagar menos el nuevo cliente, por captación. Hay veces que da la sensación que determinadas Cias, venden hasta por debajo de coste.</p> <p>El problema es que si luego hay siniestralidad en ese ramo de seguro, repercute entre todos los clientes de la compañía, lo que siempre me ha parecido muy injusto.</p>	<p>Thank you for your comment providing Eiopa with your practical experience.</p> <p>On your first example, we thank you for sharing your experience providing evidence of the existence of differential pricing practices..</p> <p>On your second example, we would like again to thank you for sharing your experience. Eiopa already partially addressed the issue by issuing a Warning on the sale of Credit Life Insurance Policies via bank distribution channels and it will continue monitoring the situation.</p>

	<p>Hay veces que incluso la propia compañía desde su web vende un precio más barato, que el que podemos ofertar los pequeños distribuidores, y esto perjudica al consumidor ya que, si quiere un precio más ajustado, le priva de tener un asesoramiento de un profesional de la distribución y muchas veces quieren contratarlo con un Mediador de Seguros pero el producto y precio de la web, y no nos dejan. (ej en ocasiones la diferencia de precio puede oscilar en más de 100€, sin embargo, la comisión del distribuidor puede ser 30€, las garantías pueden ser distintas en algo, pero ese producto no nos lo dejan comercializar)</p> <p>1- Generally in Spain the prices are cheaper in new contracts in Auto (compulsory insurance) than in the portfolio (client who already has seniority in the insurance company), that is to say that the loyal client who has been there for more years is treated worse than the new one, although the risk is the same.</p> <p>The companies normally do not let a customer who already has that risk insured with the same company take out new insurance.</p> <p>Therefore, for the same risk (generally Auto), the new client tends to pay less, for attraction. There are times when it seems that certain companies sell below cost.</p> <p>The problem is that if there is a loss in that line of insurance, it is passed on to all the company's clients, which has always seemed very unfair to me.</p> <p>There are times when even the company itself sells a cheaper price from its website than what we small distributors can offer, and this is detrimental to the consumer because, if he wants a tighter price, it deprives him of having the advice of a professional distributor and many times they want to contract it with an Insurance Broker but the product and price of the web, and they do not let us. (ej sometimes the price difference can range over 100€, however, the distributor's commission may be 30€, the guarantees may be different in something, but that product they do not let us market).</p> <p>2- 2- En España, es práctica habitual conocida por todos, que los bancos “obligan” a la gente cada vez que pide un préstamo, hipoteca, línea de crédito a hacer un seguro de vida, hogar...</p>	<p>On your third example, EIOPA sees a risk of growing protection gaps and this is being addressed via different workstreams – e.g., we highlight this risk in the consumer trends work and also EIOPA is doing work in the area of protection gaps.</p>
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		<p>No se explica bien al cliente, ni otras posibles opciones que tiene, ni lo que le supondría al mes en € no tener el seguro con ellos. (ej: tengo ahora un cliente que me ha llegado con la póliza de seguro de hogar de su banco que paga 800€, y haciendo presupuestos le sale por menos de 300€ y con mas garantías, en los seguros de vida pasa lo mismo los que “obliga” a hacer el banco son por lo general mucho más caros que los que hacemos los distribuidores pequeños y les priva de poder contratar el seguro libremente con quien les de más confianza y les vaya a atender en caso de siniestro)</p> <p>Ahora también es habitual que si el cliente no hacen algún seguro con el banco, les cobra 120-150€ de comisiones de banco, con lo cual la gente hace el seguro con el banco, para ahorrarse ese dinero en las comisiones, aunque el seguro sea peor que el que tiene, y renunciando a un distribuidor profesional que le asesore.</p> <p>2- In Spain, it is common practice known to all, that banks "force" people every time they ask for a loan, mortgage, credit line to take out a life or home insurance....</p> <p>It is not well explained to the client, neither other possible options that he has, nor what it would mean to him per month in € not to have the insurance with them.</p> <p>(e.g.: I have now a client who has come to me with the home insurance policy of his bank that pays 800€, and making budgets comes out for less than 300€ and with more guarantees, in life insurance happens the same thing that "forces" to make the bank are usually much more expensive than those we do small distributors and deprives them of being able to freely contract the insurance with whom they trust more and who will attend them in case of loss).</p> <p>Now it is also common that if the client does not take out insurance with the bank, they are charged 120-150€ of bank commissions, so people take out insurance with the bank, to save that money in commissions, even if the insurance is worse than the one they have, and renouncing to a professional distributor to advise them.</p>	
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		<p>3- 3- Otro problema que en ocasiones nos encontramos es que las compañías de seguros, a los pequeños distribuidores, no nos cotizan muchos riesgos; simplemente por ser pequeños, solo ofertan a grandes distribuidores, quitándonos del mercado y obligando al consumidor a contratar con los grandes, limitando la competencia del mercado. (ej un seguro para una administración pública, paga más por ese seguro de lo que suele ser lo habitual, pero simplemente los pequeños no podemos entrar, por los requisitos q muchas veces pide la administración y porque las propias compañías no nos cotizan esos riesgos)</p> <p>3- Another problem that sometimes we find is that insurance companies, to the small distributors, do not quote us many risks; simply for being small, only offer to large distributors, removing us from the market and forcing the consumer to contract with the big ones, limiting the market competition.</p> <p>(e.g. an insurance for a public administration, pays more for that insurance than usual, but simply the small ones can not enter, because of the requirements often asked by the administration and because the companies themselves do not quote us those risks).</p> <p>GRACIAS THANK YOU</p>	
304	POLISH CHAMBER OF INSURANCE (PIU)	<p>1 EIOPA DIFFERENTIAL PRICING PRACTICES PUBLIC CONSULTATION POLISH CHAMBER OF INSURANCE (PIU) OPINION Polish Chamber of Insurance (PIU) welcomes the opportunity to participate in EIOPA public consultation on the supervisory statement on differential pricing practices in non-life insurance lines of business. While preparing our position we consulted prof. Paweł Wajda as a leading scholar within the area of insurance and administrative law (University of Warsaw, Department of administrative law and administrative procedure) and recognizable practitioner (Baker McKenzie law firm Poland). In our opinion, based on the consultation with Prof. Wajda, there are doubts as to the legal basis for issuing EIOPA's statement, in particular regarding the principles of proportionality and subsidiarity. Therefore, the most preferable option for the PIU indicated in the EIOPA's impact assessment document is Option No. 1 "No action (maintain status quo)". Should this option would not be possible, the PIU is of the opinion that any further EIOPA's action in terms of pricing techniques cannot be bidding neither for</p>	<p>EIOPA would like to thank the PIU for the useful and comprehensive feedback.</p> <p>On the legal basis for this statement, EIOPA invites the PIU to consult the comprehensive analysis provided in the feedback statement.</p> <p>We would like to highlight that with the Supervisory statement EIOPA carefully follows the</p>

		<p>National Competent Authorities (NCAs), nor for individual (re)insurance undertakings. Below we present the arguments in favor for the position adopted by the PIU. 1. Doubts regarding the legal basis to issue supervisory statement on differential pricing practices in particular with regard to EU Principles of Proportionality and Principle of Subsidiarity EIOPA indicates as the legal basis for its activity Article 29 (2) of EU Parliament and Council Regulation No. 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority) which regulates formation of a common supervisory culture. Article 29 (1) 2 is, in our opinion, a very general rule. It does not explicitly provide a legal basis for EIOPA to issue a soft law act, which will result in national legislators having to change national law in order to implement this soft law act. We consider direction that any of the EIOPA's findings in terms of pricing techniques to be forwarded to NCAs for their further application within national jurisdictions reasonable. EIOPA's powers under the current regulations, adopted in accordance with the principle of proportionality, should take due account of the nature, scale and complexity of the risks associated with activities of a financial institution. When carrying out its tasks, EIOPA should act independently, objectively and in a non-discriminatory and transparent manner, bearing in mind the interests of the EU market as a whole. EIOPA's analysis has not demonstrated that the unfair practices as described in the consultation document are carried out on practically all the markets. Therefore, EIOPA should respect the principle of proportionality where appropriate and exercise its powers only if that is necessary. Insurance companies under currently applicable EU and national legislation are allowed to carry out profiling activities. Consequently, supervisory initiatives undertaken by EIOPA should be limited to general market problems, and should not be used to respond to individual signals regarding protection of insured persons. In situations such as those described in the draft of the Statement, the supervisory tools of the NCAs should be sufficient to achieve the objectives indicated therein. Additionally, EIOPA's action should aim at possibility of cooperation between the NCAs and national legislators in order to implement national regulations that ensure an adequate level of protection for individual customers. EIOPA's supervisory action in the field of consumer protection should therefore not restrict entrepreneurial freedom of insurance undertakings. 2 EIOPA's proposal might not properly address the principle of subsidiarity. EIOPA's statement is likely to unjustifiably intervene into the area of price setting which is regulated in Member States by the national legislator within the area of private civil law and supervised by the NCAs. EIOPA's interference in the premium setting is therefore excessive</p>	<p>principle of proportionality and subsidiarity.</p> <p>EIOPA uses a less intrusive legal instrument, a convergence tool Supervisory statement, to address the issue.</p> <p>The Supervisory statement follows a proportional and risk-based approach by identifying certain differential pricing practices that do not raise supervisory concerns, and on the other hand highlighting those ones that are deemed to lead to unfair treatment of consumers. Moreover, the Supervisory statement follows a risk-based approach by leaving it to the national competent authorities to define, following a risk-based approach and taking into account relevant national regulatory requirements, the scope of their supervisory work in those areas where they consider that greater threats to consumer protection exist.</p> <p>Furthermore, the Supervisory statement seeks to clarify supervisory expectations with regards to existing requirements of the IDD legislative framework in the</p>
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	<p>and unjustified especially for the markets where unfair practices (as defined by EIOPA in the consultation document) have not been observed - both by the insurance industry and NCAs. On the contrary, EIOPA's action in this area could discourage insurance undertaking from profiling customers and therefore undermine development of effective risk assessment by using new technologies. Profiling has been recognized in EU law as an acceptable practice by service providers – e.g. Article 4(4), Article 13(4)(f), Article 15(1)(h), Article 21 and Article 22 of GDPR. Therefore, clients profiling practices are common in various markets with no proof of detrimental effect on customers. Moreover, in current and expected future market conditions of high inflation markets there is no possibility to properly identify between “differential pricing practices” and price increase due to inflation during the insurance contract renewal. Moreover, Art. 17(1) of IDD was addressed by the EU legislator to the Member States exclusively. Therefore, in the first instance, it is national legislators who should analyze whether unfair practices as described in the consultation document need further legislative or supervisory actions on their market and whether Art. 17(1) of IDD provides them with this possibility. EIOPA's supervisory activities should take into account the principles of subsidiarity and proportionality. When analyzing EIOPA's competence within the area of premium setting, it is important to determine whether those objectives could be sufficiently achieved at national level. It seems that due to the high diversity of individual insurance markets in various EU member states and the specifics of the insurance market itself, there is no certainty that actions undertaken by EIOPA at the union level will bring better results for the consumer protection. As the PIU we believe, that these issues should be analyzed by national regulators and supervisors who know their domestic market and its specificities best. Therefore, EIOPA's action are likely not to be justified based on the principle of subsidiarity set forth in Article 5 of the Treaty on European Union. Instead, already existing supervisory powers within the current legal framework are sufficient to achieve the objectives indicated by EIOPA. EIOPA's reliance on the analyses concerning only three Member States is inadequate to adopt a solution that would apply to all Member States. EIOPA referring only to three member states (and thus representing 3/27 of all member states) demonstrates insufficient data. As a result, too, it is not justified (nor in accordance with the principle of proportionality) that the conclusions relating to 3/27 EU member states, could be the same for the remaining, dominant group of 24/27 member states. 2. EIOPA statement will require a significant amendment to national law The legal opinion indicated that EIOPA might not be entitled to issue a Statement with the content presented for the public consultation. Article 9</p>	<p>context of differential pricing practices, and does not introduce new legal requirements. It acknowledges the existence of different requirements at national level and it explicitly states that it does not seek to affect those requirements.</p> <p>As reflected in the impact assessment EIOPA is aware that the Supervisory statement might have some implications for the market, and for this purpose it seeks to strike a balance between ensuring consumer protection and at the same time enabling stakeholders to harness the benefits from differential pricing practices.</p> <p>As far as the reputational risk is concerned, which was also highlighted by some respondents to the consultation, EIOPA believes it is adequate to signal bad practices at this stage to avoid possible reputational risks for the sector. However, the Supervisory statement acknowledges that some types of differential pricing practices may bring benefits to consumers and for this reason</p>
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	<p>of the EU Regulation No 1094/2010 Of The European Parliament And Of The Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority) define EIOPA’s tasks as having “leading role in promoting transparency, simplicity and fairness in the market for consumer financial products or services across the internal market(...)”.Therefore, it should be noted that according to the aforementioned specific tasks defined by EIOPA’s regulation, EIOPA might not be entitled to issue a statement with the content presented in the consultation document. The statement does not address areas of promoting transparency, simplicity and fairness in the market for consumer financial products or services across the internal market, but rather requires national supervisory authorities to supervise whether different pricing practices lead to unfair treatment of consumers. The statement is therefore 3 not related to EIOPA’s tasks in the area of promoting transparency, simplicity and fairness in the market for consumer products and financial services of the entire internal market, but is aimed at equipping national competent authorities in the catalog of competences in the area of supervision over whether different pricing practices lead to unfair treatment of consumers. Where - similarly at national level - national supervisors are not competent in this area and this area does not fall within the scope of financial market supervision. Consequently, it could be concluded that EIOPA under Article 9(2) of EIOPA’s regulation is not competent to introduce soft law acts regulating the protection of consumer rights. Moreover, the draft statement could not be seen as referring to regulatory and supervisory practices, as it actually refers to activities of insurance companies (and not to practices of the national competent authorities). Additionally, it should be noted that the obligation imposed by the Statement cannot be applied by national supervisory authorities while they are not competent in the field of consumer protection. It also should be noted that Polish legal framework would require fundamental amendments in order to enforce obligations in terms of supervision of price profiling by the Polish NCA (Financial Supervision Authority - UKNF) as described in the Statement. Current legal framework does not provide for supervisory tools in this area. Under Polish administrative law, presumption of competence is forbidden. Public authorities should act within limits on the basis and within the law, which means that any interference with the rights and obligations of individuals (including companies) should have appropriate legal basis. Thus, in a situation where the national legislator did not include provisions which provide for a clear and direct permission for UKNF to interfere in the pricing practices, national competent authorities will not be able to take such actions. 3. EIOPA</p>	<p>EIOPA has decided against the use of more intrusive legal instruments.</p> <p>Finally, the Supervisory statement clarifies that the mutualisation of underwriting risks and cost-related price increases (for example as a result of inflation) are out of the scope of the Supervisory statement.</p>
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		<p>statement might undermine the role of soft law acts EIOPA indicates Article 29(2) of the EIOPA’s Regulation as a basis for issuing a Supervisory Statement. PIU is of the opinion that this principle might be too general for EIOPA to be authorized to issue a soft law act, which will force national legislators to amend national law. Implementation of the EIOPA’s Statement will undermine role of the soft law acts. In case of “traditional” soft law acts, there should be no further legislative action required to implement soft law acts. On contrary, EIOPA’s Statement will result in necessary legal initiatives by particular member states which will provide UKNF with supervisory tools in the area of pricing techniques. Soft law can be understood as rules of conduct that are not mandatory, but are limited to practical effects. 4. Restriction of competition Currently on the Polish market there is a wide variation in prices when changing insurance service providers. New legal restrictions on the management of the insurance offer will likely result in greater barriers to entry and development for small and medium-sized insurance undertaking, due to barriers while introducing special offers for "new customers" - compared to other industries in the EU market, where such practices are allowed. Polish insurance market is highly competitive in terms of price and no undertaking can afford to raise prices excessively. Significantly lower renewal rates are observed for the group of customers subject to the premium increase. This confirms that the Polish insurance market is highly competitive and therefore the risk of customer price exclusion is low. EIOPA’s activity is also likely to reduce competitiveness on the insurance market by limiting price diversity and the possibility to gain new consumers representing small share of the current portfolio of insurance undertaking. 4 EIOPA’s actions may also result in reduction in the availability of multi-channel services. Currently the insurance market is characterized by diversified distribution channels (branches, hotline, online, agent's direct visits) - making the offer accessible to the elderly costumers and those customers who are less well-off. It is also possible that the EIOPA’s statement could result in reduction in the number of distribution channels for insurance products within the local markets. This would have the opposite effect to the objectives described in the consultation document and could be very unfavorable for the further development of those local insurance market where number of the distribution channels increases. The new rules postulated by EIOPA in its draft statement will be unjust for those customers who are currently looking for a better offer when choosing insurance product allocating their time and effort to do so. The customers who will benefit from the EIOPA’s solutions are those who are passive (i.e. do not look for better offer, do not want to do so for some reason, do not want to devote time to it, etc.). In case of the insurance market customers</p>	
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