TRANSPARENCY AS A PREREQUISITE FOR THE PROTECTION OF INSURANCE SERVICE CONSUMER RIGHTS

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Abstract: The topicality of the article is determined by the need to increase consumers’ trust for the insurance market. The aim of the article is to determine the cause and effect relationships between the transparency of the insurance market and the protection of insurance service consumer rights. The applied aspect of the study is associated with consideration for the institutional peculiarities of the national insurance market. The general scientific research methods include: the use of legal frameworks, the dialectic and systemic approaches. The special-purpose research method is determining the influence of insurance service pricing mechanisms on the transparency of the market. The complex of measures to be implemented in practice with a view to increasing the transparency of the insurance market and ensuring the protection of insurance service consumer rights is justified. The theoretical significance of the results obtained is their positive influence on the overall economic situation in the state, as the restoration of confidence for insurance institutions will contribute to the attraction of the population’s savings to the investment market, and the proper use of insurance coverage opportunities to satisfy the social needs of citizens will decrease the load on government finance, which will provide an opportunity to allocate the resources released to the performance of economic development tasks.

Keywords: transparency, protection, consumer rights, insurance services, market, trust

Introduction

The problem of the formation of a powerful insurance market has an extremely important role in solving the problems of national practice, as, firstly, insurance coverage decreases the personal and collective risks of economic entities, and secondly, insurance companies generate significant volumes of investment resources to fund the national economy. The achievements of modern science represented by institutional theories prove conclusively that the development of Ukrainian society is affected negatively by the deformation of the institute of the population’s trust for the state in general and specifically financial corporations. According to the Reforming Strategy for the System of Consumer Rights Protection in Financial Service Markets for 2012-2017, the top-priority task of the activities of financial institutions is to increase the consumers’ trust for financial service markets, particularly the insurance one [Official website of the Verkhovna Rada of Ukraine].

One of the most important lines of development of insurance activities that lets increase the citizens’ trust for insurers and the institute of insurance in general is consumer rights protection. The existence of information concerning insurance products, exceptions and special policy conditions that is timely, high-quality and understandable for the consumers of insurance services is an important element of trust building in the insurance market and the development of competition in it [Pryvalova O. M., 2013, p. 52]. Unfortunately, national insurance companies possess a low level of information culture with no sources of proper quality that would let consumers assess the quality of insurance products on their own. Thus, the growth prospects of the insurance market of Ukraine are associated with the restoration of the institute of trust for insurance companies, ensuring the transparency of their activities and the provision of high-quality information for their customers by insurance companies. Specific issues of the information culture of the insurance companies of Ukraine and the assurance of policy holder rights have been studied by such Ukrainian scholars as Il’chenko H. O., Pryvalova O. M., Vytsykhovych O. V., Yazvins’ka O. M. and Zhabynets’ O. Y. However, the problems specified are considered independently, which necessitates studying the cause and effect relationships between the transparency of the insurance market and the protection of insurance service consumer rights.

Method

The methodology of the article has a theoretical basis and a practical one. The applied aspect of the study is associated with consideration for the institutional peculiarities of the national insurance
market. The general scientific research methods include: the use of legal frameworks to determine the content of the category of the protection of insurance service consumer rights, the dialectic approach to determine the cause and effect relationships between categories, the systemic approach to justify the complex of measures to ensure transparency and observe the rights of insurance service consumers. The special-purpose research method is determining the influence of insurance service pricing mechanisms on the transparency of the market.

**Results**

Transparency is informing the general public of the decisions and activities of authorities, of the activities of any institutions, organizations, economic entities and officials in general [Official website of SLOVOPEDIA budget terms dictionary]. Transparency opposing uncertainty is perceived by economic agents as an additional factor of influence on the decision making process. Of great significance in the insurance market is the transparency of the financial regulator – The National Commission Exercising Government Regulation in the Sphere of Financial Service Markets (National Financial Service Commission) and insurance companies. The National Financial Service Commission discloses information on regulatory measures in the insurance market, reports on its state and rounds up news [Official website of the National Commission Exercising Government Regulation in the Sphere of Financial Service Markets]. In general, the activities of the insurance market regulator are quite transparent and pave the way for the protection of insurance service consumer rights, which is understood as a set of conditions provided by law that precede the origin of the policy holder’s right for protection itself and serve as an explanation for the use of some means of protection or other [Il’chenko H. O., 2014, p. 278]. Such reasons include the violation, non-recognition or contestation of a right of an insurance service consumer.

Insurance legal relations are a type of civil legal relations, in which freedom of contract is inherent. In this context, a number of EU directives are dedicated to the protection of insurance service consumer rights: 93/13/EEC – on unfair conditions in consumer contracts, 97/7/EC – on consumer protection in respect of distance contracts, 2002/65/EC – on the remote marketing of consumer financial services [Official website of “Knowing Insurance” information resource]. The rapid development of information technology, the sale of insurance services via the Internet and numerous innovations require reliable protection of the customers’ personal information and other confidential information from insurance companies today. Understanding the significance of information security provision, Ukrainian insurers are starting to implement the cutting-edge technologies of confidential data protection in their activities (Zhabynets’ O. Y., 2014, p. 35). However, unlike the developed countries of the world, Ukraine has no statutory requirements for insurers in the information protection system.

The transparency of an insurance company implies the disclosure of information on its activities and financial results, insurance rate formation etc. The insufficient level of insurance culture of the majority of insurance service consumers limits the use and development of insurance protection mechanisms significantly, which is mainly due to: the limited nature of information on insurance and insurance entities in mass media, the insufficiently qualified management of the insurance industry, the low living standards of a significant segment of the population, the poor development of the spheres of small business and entrepreneurship, the short financial planning horizon of households and economic entities.

To ensure the enforcement of the right of financial service consumers for information transparency, it would be expedient to introduce the mandatory publication of information on the amount of the agent fee in each insurance payment. Possessing such information, the insurance service consumer will be able to choose insurance companies in a more justified and objective manner. In the specialists’ opinion, the optimal amount of the agent fee as far as the protection of consumers’ rights and interests is concerned ranges from 0 to 20 % [Vytsykhovych O. V., 2014, p.162]. A decrease in the agency fee will contribute to an increase in the reliability and financial solvency of the insurance company.

An important component of the protection of consumers’ interests in the relations between insurers and policy holders is the attempts to eliminate the possibility of fraud on both sides. After all, experience shows that about 50 % of all the maintenance station bills made out contain inflated values of repair and recovery activities. The percentage of biased expert evaluations performed by outsider organizations is even higher and can be as high as 70 % [Yazvins’ka O. M., 2013, p. 576].

The transparency of an insurance company is associated with the increase in the quality and transparency of the information disclosed by them in accounting, statistic and consolidated financial...

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statements based on international standards. The increase in the requirements for the volume, quality and interval of insurance entities’ presentation of statements and other information disclosed by them should not be accompanied by duplication of figures and their excessive detialization.

A progressive form is presenting the statements of insurance companies to the insurance supervision authority in the form of electronic documents created using the electronic signature. The process of receipt and analysis of the statements of insurance entities has to be fully computerized and contribute to the performance of online monitoring, the aim of which is to detect the problems and negative factors in the insurers’ activities on time. The process of computerized processing of statements has to include their analysis using comprehensive techniques that indicate early signs of the insurers’ insolvency (bankruptcy) with the purpose of the operative intervention of the insurance supervision authority. The proper discharge of its powers to control the reliability of the insurers’ statements by the insurance supervision authority requires forming the criteria for determining their unreliability and a proper system of response to the facts of their figures being distorted significantly and the attempts to conceal the actual state of affairs.

The forms and methods of state insurance supervision have to be complemented by independent auditor control procedures. It is necessary to create the regulatory conditions for the interaction of the audit organizations that conduct mandatory insurer audit and the insurance supervision authority. It is expedient to increase the role of audit organizations (individual auditors) in the independent control over the insurers’ activities by establishing their duty to express, besides their opinion on the reliability of the annual accounting (financial) statements, views on the insurer’s observance of the established financial stability and solvency requirements and on the state of its internal control in the auditor’s opinion. Based on the results of the generalization of the practice of drawing up consolidated financial statements according to international financial reporting standards by insurance organizations, approaches to and methods of supervision over insurance groups and financial conglomerates have to be created according to Directive 98/78/EC, which establishes requirements concerning additional supervision over the activities of insurance organizations being part of an insurance group [Official website of “Knowing Insurance” information resource].

The increase in the transparency of the insurance market will be furthered by the creation of a dedicated website with a view to informing citizens of insurers, insurance intermediaries, the price and conditions of certain types of insurance to provide the prerequisites for the conscious choice of insurance services, their providers and sellers by policy holders on an alternative basis. Insurers have to disclose information clarifying the terms of the insurance policy to consumers, explaining the procedure of settlement of losses, determining the amount of insurance payments and their performance upon the insurer being notified of the occurrence of the event insured and the consumer submitting the relevant application in their official websites.

It is necessary to harmonize the legislation on the protection of consumer rights and insurance laws with a view to increasing the legal protection of insurance service consumers in view of the peculiarities of insurance activities, ensuring unambiguous law enforcement and judicial practice, determining the forms of the insurers’ interaction with consumer rights protection societies. Approaches to the assessment of the damage inflicted upon the life, health and property of the citizens require unification for the amount of damage to be assessed objectively and equally.

The created institute of the insurance ombudsman as the independent adjudicator that settles disputes between the aggrieved resulting from the event insured and insurance companies needs to be popularized in Ukraine [Official website of the Ukrainian insurance ombudsman]. The ombudsman’s assistance is free for the citizens, their decisions being binding upon insurance companies being members of the “Ukrainian Insurance Ombudsman” union. The insurance ombudsman performs the out-of-court settlement of disputes between insurers and individual policy holders (those insured and beneficiaries) based on the principles of independence, conscientiousness, fairness, objectiveness and impartiality, the recognition of the human and civil rights and freedoms and their comprehensive protection, high-quality legal advising, ensuring the confidentiality of the applicants’ personal information.

The strengthening of consumer rights protection will be furthered by the formation of guarantee funds for the mass, socially important types of insurance so as to ensure the fulfillment of the obligations assumed under insurance policies by the insurers in case they are unable to perform insurance payments due to license revocation or the application of bankruptcy procedures.

Increasing the insurance culture of insurance service consumers requires coordinated actions of the professional participants of the insurance market, their associations, government authorities and
other stakeholders. It is necessary to conduct awareness building and outreach on a regular basis among the population and economic entities based on the representative bodies of the professional community of insurers, research and education institutions. Cooperation with mass media implies conducting specialist conferences, workshops, covering up-to-date and demanded information on the types of insurance services, insurance risks and the means of protection from them on television, over the radio and in print. The increase in the quality of insurance company management implies the creation of a comprehensive system of occupational training and retraining of insurance specialists.

Discussion

A complex of measures to be implemented in practice to increase the transparency of the insurance market has been justified: introducing the international standards of insurance company information security into Ukrainian practice, the creation of a dedicated information site about insurance services, the disclosure of the terms of entry into and performance of insurance agreements on the official sites of insurance companies, the development of the remote form of insurance service provision, insurance companies submitting reporting information to the insurance supervision authority in the electronic form. The improvement of the rights of insurance service consumers will be furthered by the implementation of the following complex of measures: joining international conventions on unfair conditions in consumer contracts, on consumer protection in respect of remote contracts, on the remote marketing of consumer financial services, harmonization of consumer rights protection legislation and insurance law, the insurers’ cooperation with consumer rights protection societies; the popularization of the activities of the Ukrainian insurance ombudsman, increasing the insurance culture of insurance service consumers and the professional competence levels of the employees of insurance companies.

It has been shown that there is a complex dialectical connection between transparency and consumer rights protection: an increase in transparency has a positive influence on consumer rights protection, on the reputation of insurers and the growth of the insurance service consumers’ trust for them. The implementation of the measures to build the rights of insurance service consumers, in its turn, results in the improvement of the information space in the insurance market.

The theoretical significance of the results obtained, which are aimed at increasing transparency and ensuring the protection of the rights of consumers of the insurance market, lies in the positive influence on the overall economic situation in the state, as the restoration of trust for insurance institutions will contribute to the attraction of the population's savings to the investment market, and the proper use of the opportunities of insurance coverage to satisfy the social needs of the citizens will decrease the load on government finance, which will provide an opportunity to allocate the resources released to the performance of economic development tasks.

Prospects for further studies include the development of recommendations concerning the formation of an investment memorandum of an insurance company.

References


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