# INSURANCE BROKERS:
# THEIR ROLE, THEIR MISSIONS
# AND COMMISSION-BASED REMUNERATION

FRENCH BROKERS' FOCUS GROUP
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The French Brokers' Focus Group is made up of insurance brokerage companies who have decided to come together to discuss and debate the issues facing their profession. Its aim is to promote a qualitative view of the profession, as practised by those operational in the field, very much a part of the local economic fabric and with close ties to their clients. The Focus Group is made up of seven French brokers: April, Bessé, Cbp France, Conseil et Courtage en Assurance de Lyon (CCAL), Finaxy, Diot-Siaci and Verlingue.

This memorandum takes an in-depth look at the role and services provided by insurance brokers as well as a largely unknown but historic aspect of their remuneration: commissions as a percentage of premiums paid.

Paris, November, 2021

## SUMMARY

# OVERVIEW

The profession of insurance brokerage is one that, even today, people know little about. Belonging to the family of insurance intermediaries, brokers represent and aid their clients – policyholders – throughout their dealings with insurance firms.

Present in all fields of activity in the French economy and active in all branches of insurance, **brokers fulfil four main roles for their clients:** (1) assessing insurance needs, (2) identifying the right insurance products, (3) periodically checking active policies and advising clients on them and, lastly, (4) providing help in the event of a claim.

**This profession ensures a more balanced relationship between clients and insurance firms,** yet it is currently under attack because of its commission-based remuneration. Commission-based remuneration consists of paying the broker a set sum as a percentage of insurance premiums paid before tax.

Far from creating a conflict of interest with insurance firms, this method of payment, included in the insurance premium, is actually an essential part of the principle of mutualising insurance and its costs. This payment method **means everybody, even those on very modest incomes, can access this profession, its expertise and its advice.**

**Unlike a fee, commissions also offer clients flexibility and agility in managing their cases,** and enable brokers to carry out their work regarding insurance policies without having to draw up new quotes and fees each time their clients are affected by an event or a loss.

Lastly, payment on commission finances brokers' **research and development work enabling all policyholders to benefit from innovative new products** that have real social value at a suitable and affordable price. **The disappearance of this method of remuneration would have a prejudicial effect on all policyholders in France**: advice would be harder to come by, competition would be distorted to the advantage of insurance firms and their own agents, fees would have to be met entirely by policyholders while there would be no significant reduction in premiums, some types of insurance would cease to exist while other products and services offered to the less well-off would become standardised.

Commission-based remuneration has enabled the profession of insurance broker to grow throughout France, a profession that now provides employment for some 46,300 people. **Preserving this profession seems essential at a time when changing risks require greater expertise and more accurate advice.**

As part of the implementation of the European Insurance Distribution Directive (IDD2) France has opted to ban the sale of insurance products without advice. **Commission-based remuneration is very much what guarantees access and continued independent insurance advice for everyone across the country - something that cannot be achieved through fee-based payments only**.

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# Insurance brokerage:
# a little-known, key profession

The insurance broker is a member of the family of insurance intermediaries[1].

The broker is the middleman between the policyholder and the insurance firms. The broker represents the policyholder (their client) since the broker is considered legally to be their agent. The broker is tasked by their clients (private individuals, companies and public bodies etc.) to provide information, to advise them when they need insurance and to provide support. It is the broker's role to look out for their clients' interests throughout their relationship.

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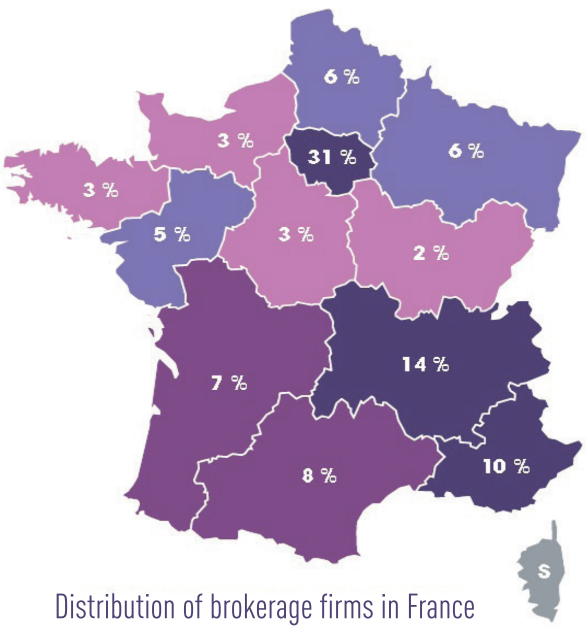
The broker is different from other professions in the intermediary family such as the general insurance agent who represents solely the insurance firm whose products they offer. A general insurance agent is mandated by insurers.

In 2019, there were some 24,988 insurance brokers in France. This represents nearly 46,300 jobs in firms, the vast majority of which employ up to four people[2]. There are also much bigger brokerage firms with more than 50 members of staff; indeed the biggest employ hundreds of people.

This diversity enables insurance brokers to operate throughout France and provide support for all policyholders (private individuals, freelancers, the self-employed, small, medium, intermediate and large businesses, public bodies and administrative agents etc.).

Brokers operate in all fields of activity in the French economy. They cover all branches of insurance: fire, accidents, civil liability, borrowing, health, life insurance, pensions, construction, credit, transport and cyber etc. They provide a local service, even for vulnerable and/or those on low incomes.



Distribution of brokerage firms in France

Source : INSEE- DADS 2015 Fichiers Entreprises - Traitements AGEFOS PME

### Insurance brokerage: a well-regulated profession

Insurance brokerage is a very old profession, dating back to the 16th century[3]. Nowadays it is regulated by a very substantive legal and regulatory corpus, both on a national and a European level, starting with the Insurance Code.

1 Insurance intermediaries are brokers, general agents, insurance agents and intermediary insurance agents (Article R511-2 of the Insurance Code).

2 ORIAS Annual Report 2019

3 Ancient documents attest to the existence of 40 sworn maritime brokers in Lyon in 1574. But it was really in the mid 19th century, after the idea of insuring goods really began to take hold, that brokers specialising in land-based insurance began to spread in France and other industrialised countries. The "Union of Land Insurance Brokers for the Seine Department" was created in 1896 (Syndicat des courtiers d'assurances terrestres du Département de la Seine).

In order to practice the profession, brokers are required to obtain a registration number from the national register known as "ORIAS[4]". The broker must also complete this registration if they want to practise under the Freedom to Provide Services (FPS) provisions in European Union member states other than France or provide special contracts, in particular for pensions (Financial Investment Advisor). Brokers also come under an independent administrative supervisory body: the French Prudential Supervision and Resolution Authority, APCR.

Insurance brokers must meet a significant number of mandatory prerequisites before exercising their profession. These include:

- Always providing their identity to any lead or client;
- Being faultlessly respectable.
- Reaching a high level of initial training which must be completed with annual training sessions of at least 15 hours;
- Presenting a certain number of guarantees (brokers must have substantial civil liability insurance and a financial guarantee);
- Lastly, they are under a legal duty to provide their clients with advice. This duty is becoming ever more standardised.

On top of this legal and regulatory corpus, brokers are subject to many recommendations from administrative authorities: ACPR, the French Commission for Data Protection and Liberties CNIL, the French Finance Ministry's anti money-laundering body TRACFIN and France's General Directorate for Competition Policy, Consumer Affairs and Fraud Control DGCCRF, etc. Nowadays, these really do amount to an additional "soft law". Brokers are also subject in turn to regulations applicable to insurance firms (e.g. Solvency II), if they want to work with these firms on behalf of their clients.

This means brokers have to establish efficient in-house control and compliance measures, particularly when it comes to processing customer complaints, monitoring insurance products and fighting money-laundering and the financing of terrorism. Such measures represent substantial costs for the brokerage firm. Brokers willingly comply with all this because they know that maintaining standards in their profession and protecting the consumer are constant challenges.

4 ORIAS: the French register of insurance intermediaries, Organisme pour le Registre des Intermédiaires en assurance

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# The insurance broker: an added-value profession with a wide field of operations

Insurance brokers play a great many roles, all serving the same end goal: supporting and defending the interests of the policyholder (private individual/consumer, company or public operator etc.) whether in insurance risk investment or when the broker needs to defend a client's interests against an insurance firm in the event of a claim.

If we go into a little more detail, it becomes clear that this role of defending the policyholder's interests involve a very wide range of actions:

> **Their presence throughout the country and their daily contact with all types of customer gives them a head start in determining specific cover needs.**

### The broker steps in to gather and analyse the client's insurance needs

This job involves a meticulous assessment of the client's risks and identifying any possible "gaps" in their professional and personal cover. The broker will then advise their client on a reasoned approach to managing their risks in line with their economic and financial situation.

This assessment may be made on a case-by-case basis when, for example, the broker is acting for a specific client, or in a more global way when they are acting for a category of identical clients (e.g.: for solicitors, boat-owners, skiers or car rental customers etc.).

This work is carried out in a variety of ways, by sending out questionnaires, through one-on-one interviews and using upstream research to check risk probability, recurrence and intensity etc.

The broker analyses all the data and decides on the risk exposure, the needs expressed by the policyholder themselves, and also those the policyholder may not even be aware of but that the broker is able to spot thanks to their experience.

### The broker identifies the required insurance products

After working out what is needed, the broker then surveys the insurance market. They consult insurance firms to find out whether an existing policy can cover the identified risks. They will compare various firms and study the offers they put forward. The broker will then negotiate the terms on behalf of their client: the level of excess, the size of premiums, the number of exclusions and the range of cover etc.

In some situations, which are becoming more and more frequent, the broker will draw up the insurance contract themselves, especially if they cannot find a suitable policy on the market or when the client presents specific risks that require a bespoke offer. This contract plan, designed for the client, will be offered to insurers who can then decide whether or not they are interested in taking matters further.

Designing and refining insurance products is in no way the sole domain of insurance firms. Because of their closeness to their clients and their in-depth knowledge of their clients' needs, brokers are in a good position to offer innovative insurance solutions. Their presence throughout the country and their daily contact with all types of customer gives them a head start in determining specific cover needs (e.g.: vulnerable/low-income clients, risky professions and young entrepreneurs, etc.). Brokers initiate many products aimed at those excluded from the traditional insurance offer such as insurance for heightened driving risks, insurance for those with serious illnesses, insurance for borrowing money and micro-insurance for those reintegrating the workforce and seeking to set up their own business.

**Brokers act as advisors for the client in choosing an insurance contract and periodically checking the contract meets their needs**

Before the client takes out an insurance contract, the broker makes every effort to objectively explain the insurance cover being offered. The broker will lay out the pros and cons of each policy and/or the various options available.

It is at this point that the broker really performs their duty to provide advice[5]. It is at this stage that they will make a recommendation vis-à-vis their client, which is their professional responsibility.

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When it comes to companies, the broker will work alongside them in dealing with insurance firms, promoting their image, highlighting their risk prevention policies and thus negotiating the best terms possible for their insurance contracts.

At each annual renewal, the broker checks changes in the insurance market to make sure premiums are accurately calculated and that the cover still meets their client's needs. This work is indispensable, even if the client does not directly ask the broker to carry it out, because the market is so volatile and competitive that it has to be monitored constantly.

This is where you find a major part of the added value offered by insurance brokers. In 2019, France counted 601 authorised insurance firms and pension funds[6]. For the broker, keeping up with changes in the insurance market, the latest trends, the new players and the inner workings and technical specificities of the insurance sector is essential. It is a good idea to turn to someone "in the know", even if it is only to dissect insurance policies which are often full of technical jargon that is barely fathomable to the uninitiated and comes more and more in digital form.

The broker also offers real added value in that they are able to renegotiate active policies with other insurers, without having to make a reassessment first.

5 Article L521-4 of the Insurance Code.
6 Source: French insurance – key data 2019 – The French Insurance Federation

### The broker provides help in the event of a claim

When a client needs to make a claim, being represented by a broker who can support and/or defend the policyholder's interests offers major advantages. The policyholder does not normally have the time or the necessary technical and legal skills. The broker can fill this role and make sure cover is activated and compensation is paid in a timely way - something that often requires assessors carrying out their job properly and promptly.

For major claims, the broker will be at the client's side to discuss the situation with the insurance firm and restore balance to the situation. One barely dares imagine a policyholder taking on an insurance firm alone in a context in which that firm is being asked to make a substantial pay-out. Most of the time it is the broker who will be able to provide answers to the sometimes complicated questions and arguments from the insurance firms, obtain an advance and speed up the compensation process.

The broker will check that the insurer has met all their commitments. Here the broker acts as a "facilitator", enabling a number of cases to be resolved through an amicable agreement as quickly as possible.

During the Covid-19 pandemic, it was fortunate that policyholders could rely on the support of their brokers when dealing with insurers under pressure and less inclined to pay out. This too is a major part of the added value offered by insurance brokers.

These are the main aspects of insurance brokerage and its added value (notably highlighted in a report by Deloitte Access Economics on insurance brokerage in Australia[7]). There are many others of course (such as help with risk prevention and alternative captive risk transfer for businesses etc.), always provided with the aim of advising, supporting and helping clients. Brokers work hard to carry out these roles with ever more professionalism.

7 "The Economic Value of Insurance Broking" – National Insurance Brokers Association – September 2020, Deloitte

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# Brokers' remuneration: commissions as a percentage of insurance premiums

The method of remunerating brokers with a "commission" or by "commissioning" consists of paying the broker a set sum as a percentage of insurance premiums paid before tax. This percentage of insurance premiums is paid to the broker in return for their expertise and the tasks carried out by them for the duration of the insurance policy.

This is a practice dating back almost 200 years. It is now the main method of remuneration for insurance brokers in France. It is also the way the vast majority of brokers are paid in other European countries such as Belgium, Spain and Portugal.

Its historic roots and the fact that it is still in practice today has led to the method being recognised by French and European lawmakers[8]. It is a classic and practical means of payment as can be found in all professions or bodies acting as intermediaries between buyer and seller, or between purchaser and service-provider, such as architects, project managers, recruitment firms, estate agents, artists' agents[9], sports agents, car dealerships, auctioneers and travel agents etc.

The other means of remunerating a broker is through fees which are paid directly by the client. This practice is less widespread in France and generally reserved for professional clients. It is also often the case that payment may be both through fees and via commission.
Fee-based remuneration often relates to a particular mission and specific services, or is for a short period only. For example, this could be when providing a consulting or audit service on a client's professional risk exposure and whether they have an adequate insurance programme.

So what exactly do some people think is wrong with insurance broker commissions?

Opponents of commission-based remuneration feel it leads to a conflict of interest. The fact that the broker earns more the higher the premium creates the impression that the broker might pay closer attention to the size of the commission in their choice of an insurance firm than their duty to act in the sole interest of their client.

In other words, the higher the premium, the greater the remuneration for the broker so why would they look for a cheaper policy elsewhere? According to this theory, insurance policies recommended to the client would not be chosen based on their intrinsic qualities but on rather on the size of the commission they generate for the broker. So the broker would steer the case towards the insurer that pays out the highest commission to the detriment of the policyholder's interests.

Some think this payment method should be banned, believing this would lead to less complex and cheaper products. They think this is the only way to guarantee trustworthy, impartial advice. This is the position held, for example, by BEUC (The European Consumer Organisation) in its 2019 report on financial advice[10], and by the chairman of the European Securities and Markets Authority (ESMA) who, in a 2020 interview given to the German review *FONDS*, did not exclude "banning commissioning" sooner or later[11].

This reasoning may seem logical at first, but the reality experienced out in the field by brokers and policyholders is quite different.

8 Article 19 of EU Directive 2016/97 dated January 20, 2016 and Article L 521-2. of the Insurance Code define commission as "the remuneration included in the insurance premium".

9 A popular French television series even referenced this means of remuneration in its title: "dix pour cent" (ten percent).

10 "The case for banning commissions in financial advice" BEUC 9/09/2019: "Commission-based financial advice, where financial advisers are remunerated by product manufacturers for recommending a specific financial product to consumers, puts a conflict of interest in the heart of the client relationship, often leading to biased advice to consumers. To ensure that advice to consumers is tailored to their needs, the payment of commissions for advice on retail investment products and complex financial products should be banned in the EU" (page 1), "[The implementation of these bans] has, in turn, promoted the distribution of more cost-effective and simpler products to consumers", page 3

11 Steven Maijoor said that it was interesting to note that in countries where commissions were already banned, clients were offered more effective products at a lower cost. He added it was evident that in such a system, client-advisor relations were more transparent. This was why a complete ban of commissioning was undoubtedly an option to be considered. ESMA has made a recommendation to the European Commission to begin a comprehensive study of the matter.

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# The French insurance brokerage model

The question of the mode of remuneration of the insurance broker must be considered in an open-minded, unbiased and unsimplified manner.

It is important to take a long hard look at "why" commission-based remuneration exists, what model it is now part of and what it actually offers the policyholder/consumer and society.

### Commissions: an essential part of the principle of mutualising insurance and guaranteeing access to advice for all

France is a country in which insurance exists purely on the basis of its founding spirit of mutualisation.

Taking on a risk and the associated cost of insurance are considered purely from the angle of global and universal mutualisation: everyone agrees to pay premiums to insure against an indeterminate risk (this is the concept of hazard), with compensation benefiting only those who suffer a loss.

It is this concept of mutualisation that guides all insurance in France and, in particular, its cost. Mutualisation enables the wider public to access insurance. It is not reserved for the better off.

**It is this concept of mutualisation that guides all insurance in France and, in particular, its cost. Mutualisation enables the wider public to access insurance. It is not reserved for the better off.**

The best way to ensure this mutualisation continues is to include in premiums all elements[12] that constitute the real cost of insurance today. Building the broker's payment into it is a way of mutualising access to this profession and, therefore, to advice.

Since the cost is index-linked to the premium, it has the advantage of being "small" for "small" premiums and "big" for "big" premiums. Thus this enables a natural compensation system through which bigger premiums make up for smaller ones.

So this system means all policyholders, particularly the least well off, are able to take out insurance and also to have a specialist provide them with quality, independent support. Thus advice and support are not the sole reserve of the wealthier classes or the richest companies.

This is undoubtedly the most significant advantage in the "French" brand of insurance, although France is far from alone in this as this principle exists among the vast majority of its neighbours (Spain, Portugal, Italy and Belgium etc.).

Remuneration based entirely on fees would upset this index-linked compensation system. This would inevitably lead a great many policyholders/consumers giving up or no longer having access to the expertise of a broker, quite simply because they would not feel they could afford it.

12 Namely the net premium of the insurance firm + obligatory taxes such as insurance tax + various contributions such as payments to compulsory funds relating to natural disasters and victims of terrorism + the cost of intermediation and distribution

Let's be realistic; would a policyholder/consumer agree to pay additional fees for ski or vehicle hire insurance? It is easy to imagine that if a person had to pay each time they used the services of a broker, as they have to do for a lawyer, they would use brokers far less often and, no longer benefiting from those services, would place themselves in danger.

Do we want an Anglo-Saxon system in which only the wealthiest have access to quality advice? Do we want a system in which harmonisation within the European Union would involve a levelling down and in which the vast majority of people would no longer have access to advice - advice which would be reserved for a privileged caste, thus increasing inequality?

Make no mistake, an hour of work for an insurance broker costs that broker the same whether the client is rich or poor. If there is no more mutualisation, either the cost is the same for all - and, therefore, too high for one category of the population - or brokers will turn away from a category of products and clientèle because they will no longer be able to be paid for this work adequately through fees. Either way the result will be the same: a large part of the population will no longer have access to advice, which will lead to a growth in those without insurance or with bad cover.

We have to remember that, as part of the implementation of the European Insurance Distribution Directive (IDD2) French lawmakers have opted to ban the sale of insurance products without advice. This obligation to advise is considered by brokers the best protection for the client - both through the personalised approach of advice and through the legal redress to which professionals are subject in the event of misselling[13].
The fact is, commission-based remuneration is very much what guarantees access and continued independent insurance advice for everyone across the country - something that cannot be achieved through fee-based payments only. Remuneration through a commission as a percentage of insurance premiums must remain a fundamental part of the insurance principle of global and universal mutualisation.

**«This is what is expected of an insurance broker and commissions are the only means of remuneration that ensures them this flexibility and this agility.**

### Commissions: guaranteeing access to the full range of brokerage services

Commission-based remuneration shows the huge advantage of being global. It offers the policyholder quick and flexible access to the full range of insurance broker services.

As shown in Point II – page 6 - the insurance broker is a multi-specialist professional. They will assess the insurance needs and risk exposure of their clients, draw up an appropriate insurance plan - which often involves innovative work - consult insurance firms, sometimes draw up contracts themselves, negotiate with insurance firms, ensure the right cover is there, support the client throughout the duration of contracts, constantly monitor policies to make sure they still meet the client's needs - sometimes requiring active contracts to be amended - help the client in making a claim (e.g.: through the inevitable administrative procedures and when assessors are involved) and, finally, make sure that compensation due is paid in a timely manner.

13 Deliberate, reckless, or negligent sales.

All these missions and the time spent are variable in scope depending on the type of client, the nature of the risk to be insured against, the level of complexity of the case and the seriousness of the misfortune etc. They vary greatly from one case to another.

The insurance broker adapts their time and energy case by case, and the tasks they are required to carry out are never identical.

In fact, the broker and their team (accountants, legal experts, customer services managers and industrial risk experts etc.) spend more time helping and advising clients who have run into difficulties (such as those facing high health risks or those who have lost their car no-claims bonus) or who need to make a claim than they would spend if they were motivated solely by profitability. It is mutualisation that enables them to act in this way. Thanks to commissions, they receive a fair wage.

When opening a new insurance file, the broker has no idea how much time they will be required to spend on it in the future. This is no surprise since they work in a field based primarily on the vagaries of risk.

In some situations, the complexity of the risks to be insured against and the legal framework needed will take up a great deal of the broker's time. In other situations, that time will be spent rather in managing a claim given its complexity, the number of parties involved and the number of assessors and counter-assessors if there are difficulties in working out the chain of causes. Experts are not always in agreement with each other and interpreting an insurance policy is not always easy. So the broker needs to be flexible, agile and proactive.

This is what is expected of an insurance broker and commissions are the only means of remuneration that ensures them this flexibility and this agility.

Commissioning enables the broker to work without worrying about having to prepare a quote and an invoice each time an event impacts on a case, something that would be far from appreciated the vast majority of the time.

**«We should make no mistake about this; commission-based remuneration serves consumers first and foremost, particularly the least well-off. It provides them with access to insurance advice at a reasonable cost.**

For example, we are all used to ensuring that a second hand vehicle we have just bought is temporarily covered even though the insurance premium has not been paid. If, when buying a car, the client had to wait for the broker to provide a quote to find out if they could insure it, imagine how frustrating that would be if they needed to use the car straight away.[14]

Likewise, when a client needs to make a claim, they are more in need of immediate help from their advisor than a quote for fees. It really is the commissioning system that enables the smooth handling of cases and allows the broker to act straight away to ensure the prompt management of incidents involving their clients, something that, in the vast majority of cases, is never billed for as such. Commissioning means the broker is paid for their diligence and the work carried out on behalf of the client during a claim - work that always takes up a lot of time and energy.

14 Choosing to ban commissions risks opening the door to what's known as "cash before cover" contracts, in other words, no insurance until payment has been received. This system removes any flexibility that currently exists with the possibility of obtaining, via the broker, cover for a risk even though payment has not yet been made. The commissioning formula actual offers the policyholder/consumer the most protection.

**What would happen in a world without commissions?**

On an intellectual basis we could imagine a world without commissions. But this would mean an invoice would be required for every task and it would be hard to provide an accurate quote in advance as all would depend on the seriousness of the matter and the level of expertise needed. Such a business model, similar to that of a lawyer, is not really compatible with daily reality when insurance contracts come into effect before they have actually been issued and the processing of a claim cannot begin with negotiations about fees.

Choosing a model where the client has to negotiate everything in advance with their intermediary for all their cover amounts to, quite hypocritically, abandoning the client to the risks they need to face. This is not the choice made by French brokerage to accompany policyholders/consumers.

In truth, the reality of practising as an insurance broker makes for an unhappy union with the rigidity of remuneration through fees only. Since fees require the prior anticipation of the tasks to be carried out, how long that would take and the costs and expenses that the case would involve, they would, for the most part, be completely unrealistic, having to rely on the "finger in the wind" method of calculation.

Fees require a quotation to be drawn up which, in itself, takes time while the client expects action from their broker straight away. If the decision is taken to move to fees and only fees, this will greatly slow down the time it takes to set up insurance programmes. The quote will have to be discussed and negotiated which will delay the broker actually getting down to work and, ultimately, place a strain on the actions to be taken on behalf of the client (fewer insurers will be consulted and there will be less time to discuss cover and premiums etc.). All this will necessarily encroach on researching and setting up cover.

Fees do not offer the agility and flexibility that commissions do. They are suitable when, for example, a client, often a company, wants their broker to carry out a clear and specific mission - one that has a deadline and is not prone to variables - such as carrying out a study or audit of an existing insurance programme.

They are not suitable when we are talking about normal brokerage work, especially if what everyone wants is for everyone in France to be able to benefit from the right to advice and to be supported and helped.

Fees would also lead to serious difficulties should a broker's client wish to exercise their legal opt-out rights. Indeed, should the client decide to exercise these rights, they will automatically be reimbursed all premiums paid, including the commission if the broker is paid that way. If the broker receives a fee, this would not necessarily have to be refunded in the event of an opt-out since the broker will already have provided a service. With commission-based remuneration, the decision of the policyholder/consumer to cancel their insurance contract would not be affected by the amount of fees paid.

We should make no mistake about this; commission-based remuneration serves consumers first and foremost, particularly the least well-off. It provides them with access to insurance advice at a reasonable cost.

Without commissions, advice would be individualised through fees, i.e. based on an hourly rate, thus leading to a higher end price. Diversity of means of remuneration, particularly a commission-based remuneration model, very much guarantees access to independent advice for all.

Commissioning also means mutualisation over time. It should be noted that brokers regularly do not seek payment - and, therefore, are not paid - for a certain number of services they nevertheless carry out. This is particularly the case for work carried out before setting up an insurance contract that, in the end, the client will decide not to take out, or managing run-offs[15].

Incidentally, this leads on to a point which may be brought up by opponents of the commission system: their recurrence.

**Commission recurrence**

How is it possible to justify annual, recurrent remuneration when absolutely nothing may have happened during a year of the contract's duration? To put it differently, some years the broker will receive a commission when they could be considered to have done "nothing".

Recurrence is justified by the fact the insurance broker carries out their duty to advise constantly on behalf of their client, as long as a contract, for which they are professionally responsible, lasts. This involves keeping watch to ensure the insurance programme is keeping up with any changes to risks. The broker also has to keep a constant eye on changes in the insurance market so they can suggest plans of action that may be in their client's interests: renegotiating a contract, opening the contract back up to competition and putting contracts out to tender to ensure the client always has the contract that is right for them. The broker does this when asked to by the client, but also on their own initiative as soon as the situation requires.

The client may not notice this work carried out on a case-by-case basis together with the insurer's team, but it is very real. It alone is enough to justify the recurrence of the commission which finances the monitoring and taking the initiative because we must not forget that since insurance policies roll on from one year to the next they require constant attention on the part of the broker.

Recurrence is also one of the ways the broker's time investment is mutualised, as we saw earlier. If a broker's remuneration were to be reduced to a one-off payment at the beginning of a contract (through a fee for example), there is a high chance that payment would be very expensive to cover the broker's potential future actions.

Remember, the broker's role and mission are based primarily on the variables of risk and the uncertainty as to what such and such a case represents in terms of involvement and support. Here the same logic is applied as that which governs insurance contracts.

As such, it would be interesting to ponder what would become of insurance policies if we applied the same reasoning to them as put forward to detractors of commissioning. Would it not follow that a premium was ultimately justifiable only for clients making a claim and not for others? Should we set up a fee system for insurers to be paid only by clients putting in a claim? Perhaps with a regularisation mechanism in line with the real cost of the incident? Obviously that makes no more sense than for the missions of an insurance broker.

15 In insurance jargon, managing a "run-off" consists of a broker, who has now had the management of a contract withdrawn from them by their client, continuing to provide support for incidents that occurred prior to this. The broker does this for free.

#### Commissions guarantee a fair price for access to advice

Some claim commissions add a pointless additional cost to insurance and that getting rid of them would lead to cheaper and simpler products being made more widely available, particularly for policyholders/consumers.

In reality, the opposite would happen. Other than the fact that, as we have explained, the universality of commissions and the fact they are worked out as a percentage means they are "small" for small premiums and "big" for bigger premiums, you need an understanding of the reality of the insurance market, such as that of brokers who live it every day, in order to understand that it cannot be reduced to a simple mathematical rule according to which the commission purely and simply follows the premium curve.

Contrary to what some believe, brokers do not fix their commissions unilaterally. When the insurance market is bullish, many insurance firms are able to get brokers to agree to commissions that do not follow the rise in premiums. How can a broker with no more than four employees in their office[16] stand up to an insurance firm with thousands of members of staff in France or abroad? When an insurance firm imposes a brokerage rate, the insurance broker has little leverage in opposing it.

What actually happens to a broker is that to be referenced by an insurance firm they must sign a brokerage agreement or a contribution agreement drawn up and presented by insurance companies who, usually in a unilateral way, set the rate of commission for the insurance broker. Some firms even reserve the right to amend them unilaterally during the contract.

Inversely, as soon as the market resets itself, pressure between competing firms quickly leads to a lowering of premiums which always has a knock-on effect on commissions without anyone worrying about what effect that will have for the brokers. This is the reality of the market as experienced by insurance brokers today.

On top of that should be added the strong competition that currently exists between brokers. As we have seen, there are some 25,000 brokers in France, with about 15 of them in the big business sector. This competition exists whether it is a bull or a bear market. Yet these days a broker can only stand out from the crowd by playing on the quality of their services and their remuneration rates. Once again, trust has to be placed in healthy competition; the founding principle of free exchange within the European Union and the guarantee of access to goods and services at a fair price for consumers.

Business clients get this and now readily use a tender system to pitch their brokers against each other.

To claim that removing commission-based remuneration would amount to a significant financial saving for policyholders in accessing insurance is completely inaccurate, unless, of course, you believe that advice, support and assistance for policyholders is of no use.

We believe that doing away with commissions would most probably result in an increase in the cost of advice for those wanting access to it. Without a shadow of a doubt, the reorganisation costs incurred by switching to "fees only" would be passed on to clients, because those who have the means to access support would end up compensating for market losses caused by those who would no longer have access to support.

16 Firms with up to four employees make up 69% of insurance brokerage companies in France. Source: Panorama of Brokerage in France 2020 Planète CSCA

We should not hold out any hope either that the disappearance of commissions would lead to an automatic reduction in insurance premiums. Insurance firms would certainly maintain premiums at their current levels. Proof of this is to be found in the fact that when a consumer takes out a home insurance policy, the price is the same whether they used a broker as an intermediary or whether they contacted the insurance firm directly! Consequently, for the same price a consumer using a broker benefits from independent advice, support on a day-to-day basis and help in the event they make a claim.

Insurance firms would have no reason to reduce premiums if the total premium remains at a level acceptable to the policyholder. Why would they offer such a gift when, on the contrary, they are looking at an easy way to boost their margins in a manner that the consumer would not even notice?

Removing commissions would have the effect of automatically strengthening the hand of already very powerful insurance firms and weakening the profession of brokers who are currently the only ones able to redress the balance somewhat in favour of the policyholder.

This would be regrettable because the current commissioning system actually encourages the broker to act with professionalism in their job throughout their dealings with their clients, taking a long-term view of their income rather than seeking to make a "quick buck".

Without this, the direct and indirect costs and the investments incurred through the act of advising and selling would never be profitable. The absence of income permanence would limit their ability to invest and would render fragile a sector exercising a healthy and constant competitive pressure on insurance firms.

To this we can add a likely fiscal impact. If commissions were to disappear in favour of nothing but fees, these would doubtless be seen as a quid pro quo for providing a service. The link with insurance would not be such a close one. It would doubtless be stretched thin which, over time, would lead to VAT becoming applicable (something that is not currently the case). The increase in consumer purchasing power would thus be hit hard because it would end up being taxed twice: insurance tax and VAT.

**Commissions guarantee education and innovation for all**

Society and the economy are in a state of constant evolution and so are risks. Who could have predicted just 18 months ago new risks that are very real: the pandemic, the explosion in cyber attacks, the latest climate catastrophes (frost) and the ongoing terrorist threat?

The evolution of these risks calls for more expertise, more accuracy and more nuance. During the Covid-19 crisis we saw insurance firm contracts come under heavy criticism. They were not specifically clear.

We believe that the near future will require more experts capable of understanding and aiding clients. Insurance brokers are undoubtedly the best placed to do this. They already provide education and innovation enabling policyholders to understand insurance and to obtain ever better cover.

More than any other, these insurance professionals also listen carefully to their clients and are constantly at work, hunting down the best insurance solutions on the market.

Some insurance brokers design insurance products because they know their clients so well they are able to work out exactly what they need. They carry out market research, check the acceptability of the product, design the structure of the insurance programme, draw up the documentation, identify the right distribution network, target the insurance firm(s) who will agree to take on the risk and launch the insurance product. In other words, they very often are the sole authors of the commercial risk of new products.

That they are currently able to do this is down, in a large part, to them benefiting from a remuneration system that allows them to finance their research. It really is the commission-based remuneration method and its mutualisation that enables brokers to innovate, not just for large companies but also for smaller ones, by working on insurance policies that have real social value at a suitable and modest price designed to be accessible to all.

If commissions were to disappear, brokers would no longer be able to be paid for work on such products. We would then see a standardisation of cover and support processes for clients: uniform products, poorer cover, a lower quality of management and an increase in time taken to settle claims to the detriment of products and services adapted to meet real needs.

If this is the simplification that opponents of the commission-based remuneration system are calling for, then we cannot agree! Quite the opposite; we believe policyholders will need more tailored products and certainly not a levelling down.

The logic applied to financial products - which opponents to commissions use quite deliberately and in parallel - which are criticised for being increasingly complex, cannot be cut and pasted to insurance products. The purpose of insurance is to cover risks external to the contract while most financial contracts create the exact risk on which they wager. They should never be lumped together because they have absolutely nothing in common either in their nature or their vocation. And while some financial products have adopted the title "insurance", in our opinion this is a misuse of language. The only goal of insurance is to protect, while the goal of the financial product is to increase wealth[17]. These two concepts cannot be assimilated and the troubles affecting financial products cannot be transposed to insurance. An insurance broker is not a financial investment inter-dealer.

**« Drops in income have been noted in countries that have switched to fees-only. In the United Kingdom, removing commissions on financial products has led to a reduction in the number of financial investment inter-dealer brokers.**

We are convinced that insurance and, therefore, the insured, need more specific products, sometimes even bespoke, fully tailored to the reality of the risks they must face.

Switching to "fees only", should it happen, would have the opposite effect to that sought. Insurance would not be cheaper, products would become uniform and the broker's spirit of innovation would be discouraged.

17 To summarise, life insurance holds out the promise of financial performance (against which any remuneration of intermediaries and managers is deducted). Risk (non-life) insurance offers the promise of lump-sum compensation or indemnity in the event of a loss/damage/accident, completely independent of the level of broker's commissions. We understand that certain mechanisms of transparency or control over fees and commissions are applied in life insurance to protect or inform the client, but these mechanisms make no sense in non-life insurance.

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# A payment method that stands as guarantor for a profession that has real social and economic value

The French insurance brokerage system and its commission-based remuneration have enabled the profession of brokerage to develop. Brokers are ever more present for policyholders and also growing in professionalism and diligence to meet requirements, particularly of compliance (training colleagues, battling money-laundering and the financing of terrorism and abiding by international sanctions by setting up screening tools etc.).

From 2017 to 2018, we saw a 2% increase in the number of brokers in France[18] - almost 503 new brokers who set up in a year[19].

Brokers are present throughout the country. Although the greatest concentration (31%) is to be found in the Paris region, 67% of brokers are not based in or around the capital[20].

This is excellent news for the profession and for policyholders. We are delighted to see that the trend will enable policyholders, wherever they live, to benefit from real support in an ever more complex insurance world. More than any other, the broker reduces the imbalance in relations between insurance firms and policyholders. It is important this situation is maintained and even encouraged. Yet, we have seen that commission-based remuneration is the primary source for this and needs to be protected.

What would the actual consequences be for brokers if commission-based remuneration were to disappear tomorrow in favour of "fees only"?

### A dramatic drop in income

The disappearance of commissions in favour of fee-based remuneration would inevitably lead to a reduction in income for insurance brokers.

Aside from the fact there would be fewer consumers ready to pay fees, all quotes submitted would have to be systematically discussed and negotiated, especially since the client would end up justifiably feeling they were covering the entire costs of the advice.

Drops in income have been noted in countries that have switched to fees-only. In the United Kingdom, removing commissions on financial products has led to a reduction in the number of financial investment inter-dealer brokers.

All brokers will be affected, including the smallest, and there is good reason to fear a great many of them will not survive such a drop in their turnover. In France, this will inevitably lead to outsourcing (such as turning to offshore platforms), a loss of jobs, bankruptcies and an acceleration in consolidation in the sector. It is highly likely that the impact will be significant and that this destruction and these bankruptcies will occur very quickly.

Consolidation will create prime targets for major foreign operators, which will have a knock-on effect on preserving French sovereignty in a sector in which a level of autonomy is key.

18 Planète CSCA, however, has recently noted a trend of an increasing number of smaller players selling up or closing down due to the burden of regulatory compliance.
19 Panorama of Brokerage in France 2020 Planète CSCA
20 Panorama of Brokerage in France 2020 Planète CSCA

Weakening French brokerage will be a catastrophe for jobs and[21] dynamism around the country. It will put an end to a profession that is currently growing and that is much appreciated by entrepreneurs.

While some brokerage firms will be able to survive, others will be hit harder, especially if we take into account the heavy structural outlay such firms have faced in recent years over compliance upgrades[22].

This would clearly be highly regrettable, all the more so since, during the Covid-19 pandemic, commission-based remuneration was able to show that the current brokerage model was very resilient and was able to ensure a continuity of service for clients in the event of a crisis. Although new business dropped off sharply during Covid-19, revenue only reduced a little because trailer fees remained static. Brokers were able to avoid having to systematically furlough colleagues or close offices, and kept working and providing a quality service at a time when help and advice were crucial.

**An increasing scarcity of advice**

A drop in income will result in an amplification of the phenomenon of insurance distribution without intermediaries. Distribution will be direct, leading to a lower quality of service and involvement in defending the client's interests and the emergence of standardised solutions.

The detrimental effect on consumers will be enormous. Brokers are present throughout the country, ensuring clients can actually meet them in person. A rarefaction of their presence would weaken this proximity with the client, especially for private individuals, and damage the quality of service. It would also weaken competition, to the detriment of policyholders/consumers.

A distortion of competition to the advantage of insurance firms and their own agents

Doing away with insurance brokers' commissions would inevitably lead to a distortion of competition to the advantage of insurance firms and their own agents. This would occur in three ways:

Suppressing commissions would, in no way, lead to a huge drop in insurance premiums. It would have the effect of improving insurance firms' income and profitability.

The fees would have to be covered solely by clients. They would have to bear the full cost of brokers while insurance firms would continue to benefit from the business generated by such intermediaries, without paying anything.

The disappearance of commissions would hand a major competitive advantage to insurance distribution networks (employees), or via their insurance agents who will continue to enjoy the benefits of commissions.

It should be noted that the price of an insurance product sold via a network of insurance employees or agents includes the costs of running this network, such as paying staff and agents. And this is worked out as a percentage of premiums paid, just like a broker's commission.

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21 Insurance brokerage in France accounts for 46,300 jobs, ORIAS annual report, 2019

22 The Directive on Insurance Distribution, Solvency II, GDPR, the fight against money-laundering and the financing of terrorism, international sanctions, the law of April 8, 2021 relating to insurance and brokerage reform etc.

If remuneration were to be reformed for brokers only, insurance firms and their networks alone would continue to benefit from all the advantages of commissions as detailed above (the mutualisation of costs, availability and room to innovate etc.), something which would be quite unacceptable.

Should the banning of brokers' commissions take place, then the ban should extend to the commissions of employee and general insurance agent networks, and, more generally, all distribution charges of insurance firms calculated as a percentage of premiums. They too should bill policyholders in the same was as brokers would have to.

**The disappearance of some types of insurance and the standardisation of other products and services offered to the less well-off**

Another foreseeable effect of banning commissions would be the disappearance of numerous low-cost affinity insurances.

These insurances, most commonly aimed at consumers, are based on a low-cost logic (a few euros) and on the hope of high volumes. Examples of this type of insurance are the kind offered when buying a mobile phone - in the event of breakage or theft - car rental, holiday cancellation or buying a ski pass.

Many of these insurance policies are designed from start to finish by brokers, sometimes at the request of clients, with insurance firms only stepping in at the end of the process to take on the risk.

If the system of commissions were to vanish for this type of insurance, to be replaced by fees or auxiliary costs, it is clear these insurance products would no longer be viable. Psychologically, no consumer would agree to pay additional expenses on top of the insurance itself, even if they currently do so through their premiums. They would not understand them. These products would no longer be profitable and would most certainly disappear.

Ultimately, this would be a wrong borne by the consumer because these "little" insurances are all of real social value to the consumer since they are accessible to a great number at a low cost.

**« It would seem a better idea to us to trust in healthy competition between the broker and insurance firms to work out a fair commission rate for the broker.**

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# So could transparency be the solution?

Another criticism frequently levelled against commissions is their so-called "opacity".

The client does not necessarily know the size of the broker's commission since they are often only aware of the premium they have to pay, and this includes the commission. This sets it apart from fees which are obvious to the client since they are invoiced directly[23].

It should be noted that regulations, such as the decree on implementing the Insurance Distribution Directive (IDD)[24], oblige brokers to inform their clients whether they work on a fee basis, a fee and/or commission basis and/or any other type of remuneration.

These have long obliged the broker to inform the client of their level of remuneration on request. So there is no opacity since the client has the means to find out just how their broker is paid and how much. Indeed, this is a right that is regularly exercised, particularly by business clients, and one to which brokers naturally submit. When this happens at the outset, it triggers a constructive discussion until both parties agree on the most suitable form of remuneration.

When it comes to the mass market, the usefulness of complete and total transparency raises more questions. In the vast majority of situations, the consumer is little interested in the broker's commission rate.

The commission is one part of the costs that together make up an insurance premium, the same as the insurer's net premium, taxes, natural catastrophe contributions, GAREAT insurance contributions to cover the risk of terrorist attacks, the insurer's overheads and loss management fees, all of which, for the most part, the consumer is completely oblivious.

When a consumer buys a car these days, are they desperate to know how much of the price goes to the fitter, the manufacturer, the transporter and the car dealership? In truth, the only thing that really matters to them is the end price they are asked to pay for the product or service.

It is false to think that a consumer would systematically ask how much the broker's commission is when they sign up for insurance for their mobile phone, hire car or home. It is also false to think that they would be happier if they knew the figure.

In fact, the actual usefulness of such information is relative. Would a client find one insurance product better for them because the broker's commission is 2% whereas for a competing product it is 10%? We do not believe that it is shocking that a commission may be higher where the broker has put in more work. As we have seen, it is not uncommon for the broker to have thought up and designed the insurance product as well as its distribution system, bearing all the associated design and distribution costs. It is hard for a consumer to have a realistic idea of the division of labour behind an insurance product, unless you overwhelm them with boring details which insurance products are full of.

In fact, we believe that total transparency around commissions would bias the consumer's opinion of a product since their evaluation would be bound to be based on an incomplete picture of the broker's role and work. In other words, they would rely on preconceptions rather than the truth.

23 Incidentally this often gives pause for thought as invoicing generally occurs once an insurance policy has been taken out.

24 Decree No. 2018-361 of May 16, 2018 on insurance distribution

It would seem a better idea to us to trust in healthy competition between the broker and insurance firms to work out a fair commission rate for the broker. Make no mistake, even with complete commission transparency, we would still see a "connected vessels" game play out between the broker's share and the insurance firm's share. The client would gain absolutely nothing. The key information would, once again, still be the total amount of the premium which is the only determining factor.[25]

We sincerely believe that, presented with information as to the level of a broker's commission, a consumer would not understand its significance as they would lack the full details of the work carried out and to be carried out by the broker.

Some believe, however, that transparency is the concession brokers have to make if they want to hold on to their commissioning system. This is a political stance based on erroneous economic logic.

But if this were to be the case, there would need to be completely equal treatment for all, or risk really distorting the competition. There would need to be transparency about:

- the net premium that goes to the insurance firm;
- all the costs the insurance firm adds to the net premium;
- the share that covers costs and remuneration for their distribution network, whether directly through their employees or via franchised agents.

If such a measure were envisaged, it would be unimaginable for it not to apply to the entire market and all those involved in it without distinction or exception.

Furthermore, as far as fees are concerned, we are not sure they would be whiter than white in terms of transparency. In reality, fees are not definitive and known until the invoice is actually issued which is often at the end of a fiscal period and long after an insurance policy has been taken out. Yet excess fees issued on the basis that the job took more time than expected leave clients feeling very disillusioned.

An additional duty of transparency seems to us to be the wrong "right idea" because it would not make matters any clearer for the client (particularly the consumer) and would result in adding to the complexity of numbers with the policyholder ending up completely lost as to the amount of premium they have to pay.

25 In health insurance markets, this transparency is already in play, and we have seen that it makes things more complex rather than clearer for the consumer. Expenses cannot be compared between players and marketing practices have not changed.

# CONCLUSION

In the insurance market, private individuals/consumers, companies and public operators will, as policyholders, pay insurance premiums to protect themselves financially against risks, events, and losses that may befall them. These premiums, added to those of other policyholders, serve to settle claims that only some people are forced to make; this is the principle of mutualising risk. It is on this principle that the entire insurance system is based and functions. Taking out insurance is accepting you will pay for others, knowing that one day it may be your turn.

**The role of insurance brokers in this market is as a go-between for the policyholder and the insurance firm but acting on behalf of the former.** They provide policyholders with a threefold service: offering advice to help them work out their needs and take out the most suitable policy; acting as an intermediary and negotiator in signing up for a contract and redefining cover if needed; and, finally, helping them should they need to put in a claim.

**For two centuries, insurance brokers' remuneration has taken the form of a commission as a percentage of insurance premiums paid.** Even though it has been publicly claimed by some that this means of remuneration is the source of a conflict of interest and that doing away with it would allow insurance costs to be reduced, mainly for policyholders/consumers, that is not the case at all. As we have shown, quite the opposite is true. An insurance broker is not a financial investment inter-dealer and doing away with commissions as a percentage of premiums charged on insurance products is an absurdity.

**Just as risks are mutualised, remuneration through a commission as a percentage of premiums paid enables the cost of advice to be mutualised.** The services provided by a broker do not cease on the day a client takes out an insurance policy. Brokers support their clients throughout the duration of an insurance contract and even more so should they need to make a claim. Only commissions can ensure as many as possible have access to personalised advice, support and the assistance of an insurance broker, since the cost is mutualised and the price is, consequently, lower than were it to be individualised through fees.

**In an ever more complex world, the role of insurance brokers is an incomparable benefit to policyholders for whom they are the legal representatives vis-à-vis insurance companies.** Their support is evident particularly in their duty to advise, which is a legal obligation that bars any conflict of interest. We feel it is important that, in the future, the policyholder has a clearer view of all the work carried out on their behalf.

The French insurance model, based primarily on remuneration through commission for the 24,470 insurance brokers in France, is a success story that must imperatively be defended, and the benefits it offers policyholders, society and the economy must be promoted. Let us remember that in France, in 2018, 503 new brokers joined our ranks, an indication that this is a healthy profession and that policyholders are in growing need of support and advice.

French BROKERS' FOCUS GROUP
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