

Press release

Special Report on health care: Monopolies Commission calls for strengthening competition on the health insurance markets

- The Monopolies Commission criticizes competition deficits in statutory and private health insurance, which reduce the efficiency of the health insurance system and burden the insureds with unnecessary cost.
- The Monopolies Commission argues for more leeway for the health care management in statutory health insurance and advocates developing the risk adjustment scheme (*Risikostrukturausgleich*) further to eliminate distortions of competition.
- The Monopolies Commission proposes a concept for rendering the change of private health insurance providers more attractive and recommends to facilitate the combination of tariffs whenever private insurers merge.

The Monopolies Commission has submitted its 75th Special Report today, which is entitled: „**Conditions and perspectives in the German health insurances system**“. In this Report, it highlights the existence of considerable unused potential in the health insurances system in Germany. If this potential were exploited, this could strengthen the long-term viability of the German health insurance systems substantially.

The statutory and private health insurance providers face significant challenges, including successively increasing costs for the health care system. The existing health insurances system reduces **the incentives for insurance carriers to look for ways to ensure optimal health care for the insured while saving expenditures** at the same time. In addition, it is time to embrace the **chances of digitalisation** in the health insurance sector, such as better prevention through individual, app-based services, or providing for better adjusted treatment journeys by linking up physicians, patients, and insurance carriers. „Strengthening competition within the health insurances systems is a prerequisite for improving health care for the insureds and for reducing costs alike“, said the chair of the Monopolies Commission, Professor Achim Wambach.

To mitigate the impediments to competition in the management of health care in statutory health insurance, and to create effective competition on the quality side, health care providers should offer **tariffs designed as optional tariffs**, and be allowed to offer more varied tariffs. The options to steer insured to the care providers should be strengthened. Moreover, it should be allowed to restrict selective treatments to hospitals with which a quality agreement has been negotiated. The risk adjustment scheme should be developed further such that the apportionment of funds to insurance providers takes account of **public health measures**. Regional differences in the level of expenditures should be reflected in the earnings of the carriers.

In private health insurance, the **options** for existing customers **to change** from one private health insurance provider to another must be improved. In the current system, private insurers compete for new customers. In contrast, existing customers have only very limited options to change their insurance carrier of choice because they can only take a small share of their ageing reserves with them. The

Monopolies Commission

Heilsbachstraße 16 · 53123 Bonn · Tel +49 . 228 . 338882 -30 · vorsitzender@Monopolies Commission.bund.de
www.Monopolies Commission.de

Monopolies Commission presents a concept according to which private insureds can take **ageing reserves reflecting their state of health** with them when they change their insurance provider. In addition, to reduce the obstacles for dynamic processes, the combination of tariffs whenever private insurers merge should be facilitated to the extent that the care under the tariffs is of equal quality and the interests of the insureds are taken into account when the tariffs are combined.

The complete Special Report is accessible at the Monopolies Commission's [home page](#) as of now.

The Monopolies Commission is a permanent, independent expert committee which advises the German government and legislature in the areas of competition policy-making, competition law and regulation. Its legal responsibilities encompass, among others, the preparation of Special Reports at its own discretion. The Monopolies Commission has five Members appointed by the Federal President based on a proposal of the German government. Prof. Achim Wambach, Ph.D., is the chairman of the Monopolies Commission.

Concept of the Monopolies Commission to further competition in the health insurance market

The Monopolies Commission sees considerable unused potential in the health insurances system in Germany. If this potential were exploited, this could strengthen the long-term viability of the German health insurance systems substantially.

Regarding the question whether fundamental characteristics of the existing two-legged health insurance system must be altered, the Monopolies Commission takes a conservative position in this Special Report. It recommends to address the analysed competition issues within the existing health insurance system first.

Recommendations as concerns statutory health insurance:

1. To steer innovation within statutory health insurance, individual advances of the health insurance carriers should be prioritised over central regulation. Where new developments take place in health care, e. g., due to digitalization, it should always be checked whether innovation, at least based on certain standards, can be left to the insurance carriers and, hence, to competition.
2. Concerning quality competition among insurance carriers, the focus should switch from differentiation based on optional benefits to differentiation based on organizational liberty in the competitive management of health care.
3. The liberty in the competitive management of health care should be increased by allowing the carriers to offer optional tariffs under all circumstances and exclusively, which allow them to exercise an influence on the quality of health care.
 - Each insured customer of statutory health insurance should be offered all tariffs as optional tariffs without discrimination. These optional tariffs should include a mandatorily offered tariff for standard care and optional tariffs differing between carriers and, potentially, regions for other forms of care.
 - The regulation of optional tariffs should be adapted such that carriers are allowed to charge a supplemental premium according to the individually applicable tariff. The supplemental premiums for other tariffs than the standard tariff, however, should only be allowed to deviate from the standard tariff (regular care) on the downside.
 - Optional tariffs prescribing the provision of services by a particular care provider should be strengthened by introducing effective steering mechanisms. To this end, the carriers should be allowed to set tariff conditions according to which they can, e. g., charge a lump-sum fee for medical registration if the insured chooses care providers that are available in the standard tariff, but not in the optional tariff of choice.
 - Concerning the family doctor-centred health care, the obligation in Sec. 73b(4) of the Social Security Code, pt. V, (Sozialgesetzbuch V) should be abolished to make contracts with associations of family doctors, which represent at least 50% of the doctors in the area of an Association of Statutory Health Insurance-Accredited Physicians (*Kassenärztliche Vereinigung*).
 - The competitive potential in the area of inpatient care should be rendered more effective as regards quality agreements (*Qualitätsverträge*) under Sec. 110a of the Social Security Code, pt. V. To this end, the carriers should be allowed to offer additional optional tariffs, limiting

- the choice of hospitals for selective treatments to those with whom carriers have negotiated a quality agreement.
4. In statutory health insurance, equal conditions should be created for all carriers as concerns regulatory supervision. To this end, supervisors should treat optional statutory tariffs in the same manner, should refrain from admitting outlay compensation tariffs standing in direct competition with private additional insurance, and limit the performance auditing regarding optional tariff products.
 5. Special efforts should be made to develop the risk adjustment scheme further as concerns the consideration of effective public health measures.
 6. To eliminate the possibilities for carriers to influence risk adjustment payments and to prevent inefficient competition, contracts designed to incentivize accurate coding and any form of coding advice should only be allowed by collective agreement.
 7. The statutory health risk adjustment scheme should be extended to include regional components. Alternatively, the preconditions for carriers to charge regionally differentiated (supplemental) premiums should be reviewed.

Recommendations concerning private health insurance:

8. In order to eliminate restrictions of dynamic processes on the private health insurance markets, it should be made possible to consolidate tariffs where existing customers are transferred.
 - The tariffs to be consolidated in that case should be similar and should in the same way be either dependent or independent of sex.
 - The benefits of the tariffs should be similar.
 - The transfer of tariff must secure the interests of the insureds.
 - A legal as well as an actuarial calculation trustee should monitor the proceedings.
9. In order to strengthen the competition of negotiation between private health insurance companies and service providers, the following measures should be taken:
 - Room for negotiation between service providers and insurance companies should be increased or additionally created.
 - Especially negotiations between providers of ambulant treatments and health insurance companies should be enabled. An opening clause will have to be inserted into the schedule of fees for doctors and dentists.
 - Instead of minimum fees, maximum charges should be agreed in the schedule of fees.
10. Additional options of changing insurance carrier should be created in private health insurance by making the transfer between insurers of age-related reserves possible, which have been determined on the basis of the individual risk of the insured.
 - The majority of the insured customers should receive this option through the impartation of individualized age-related reserves.
 - The other insureds can secure the possibility of a change of insurance by undergoing a medical examination.
 - For the calculation of the individual amount of reserves, the entire reserve should be distributed by the insurance carrier for all insureds on the basis of the so-called sum rule.
 - The insureds should be informed annually on their options of changing insurance, their individual reserve to be transferred in that case and, in the alternative, their options for a change of insurer after a medical examination.

Recommendations for competition enforcement:

11. For clarification purposes, carriers should be defined as being undertakings within the meaning of the competition rules by default, excepting the conclusion of collective agreements where they act under the rule of statutory obligations (= inversion of the statutory rule/exception relationship).
12. As far as the statutory health insurance receive blanket compensation, the Monopolies Commission advocates the defining the concrete compatible purpose of this compensation by law. Based on concerns of state aid rules, this concretisation should explicitly reserve any compensation for the purpose of financing binding statutory tasks of the statutory health insurance only. Justifications for any compensation exceeding these tasks can be possible under the rules of state aid, however, no such justification suggests itself in this case.
13. The enforcement of competition law (Art. 101 ff. TFEU, Sec. 69 Social Security Code, pt. V) has been difficult up until now and should be made more effective. The enforcement of Art. 101 ff. TFEU, as provided by primary law, must not be omitted because national supervisory authorities do not recognise their jurisdiction. In order to identify incompatible competition constraints at an early stage, it is imperative that the relevant national supervisory authorities cooperate closely with the competition authorities.