



**The Actuarial Profession**

making financial sense of the future

GIRO 2011

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# EU Gender Directive Six Months On

Liverpool 12 October 2011

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# Agenda

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- Background
  - The 2004 EU Gender Directive
  - The Test Achats case and the ECJ judgment
- What Happens Next?
- People's Survey
- Implications for insurers
- Discussion

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# Background

## Differentiation or Discrimination?

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### Differentiation

- any process in which a mixture of materials separates out partially or completely into its constituent parts

### Discrimination

- unfair treatment of a person, racial group, minority, etc; action based on prejudice

# Background

## Press coverage, and actuarial implications

What Europe's 'bizarre' women drivers ruling adds up to

Source: The Telegraph, April 2011

General insurance

- Most press coverage to date focuses on GI initially.

Pensions

Life insurance

- May be impacted the most!

Directly impacts DC annuity purchase  
Much other work currently unaffected...  
...but unisex factors etc in due course?

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# Background

## Current UK anti-discrimination legislation

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- Historically, UK legislation on:
  - Sex Discrimination (*limited impact on insurers?*)
  - Disability Discrimination (*more careful implementation of existing practices?*)
- EU Gender Directive led to specific amends to Sex Discrimination Regulations (*continuation of existing practices?*)
- Equality Act 2010 (*limited impact on insurers ... so far*)

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# Background Equality Act 2010

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- Largely consolidates existing UK legislation (Gender , Disability)
- Unlawful to discriminate:
  - Directly (treat a person less favourably because of a protected characteristic) or
  - Indirectly (do something in a way that has a worse impact on people who share a particular protected characteristic)
- 9 protected characteristics:
  - age, disability, gender reassignment, marriage, pregnancy, race, religion, sex and sexual orientation
- Ability to differentiate depends on the characteristic
- Enabling legislation for guidance on Age Discrimination – GEO currently consulting

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# Background

## Current EU Directive (2004/113/EC)

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- Aims to combat discrimination based on gender in access to, and the supply of, goods and services
- Unisex rates required but Member State opt out allowed (unless already using unisex rates)
- Applies to new insurance contracts concluded after 21 December 2007 where these are private, voluntary and separate from the employment relationship
- Pregnancy and maternity related costs cannot be reflected in premiums or benefits
- 5 year review (originally) due at end of 2010 with Member State review of opt-out to follow by 21/12/2012
- Implemented differently across Europe

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# Background

## Current EU Directive (2004/113/EC): Opt-out clause

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- Article 5(2) allows Member States to permit differences related to sex in respect of insurance premiums and benefits:
  - Where gender is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data then proportionate differences in individual premiums or benefits are allowed
  - Data must be compiled, published and regularly updated



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# Background

## Current EU Directive: Use of Opt-out clause

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All 26 countries availed of the opt-out clause:

- 13 for all types of insurance (incl. UK)
- 9 countries do not allow gender to be used for motor
- 4 countries do not allow gender to be used for accident
- Several countries allow only for selected classes:
  - Belgium – Life/annuities only
  - Cyprus – Life/annuities/accident only
  - Norway – Life/annuities/disability only

# Background

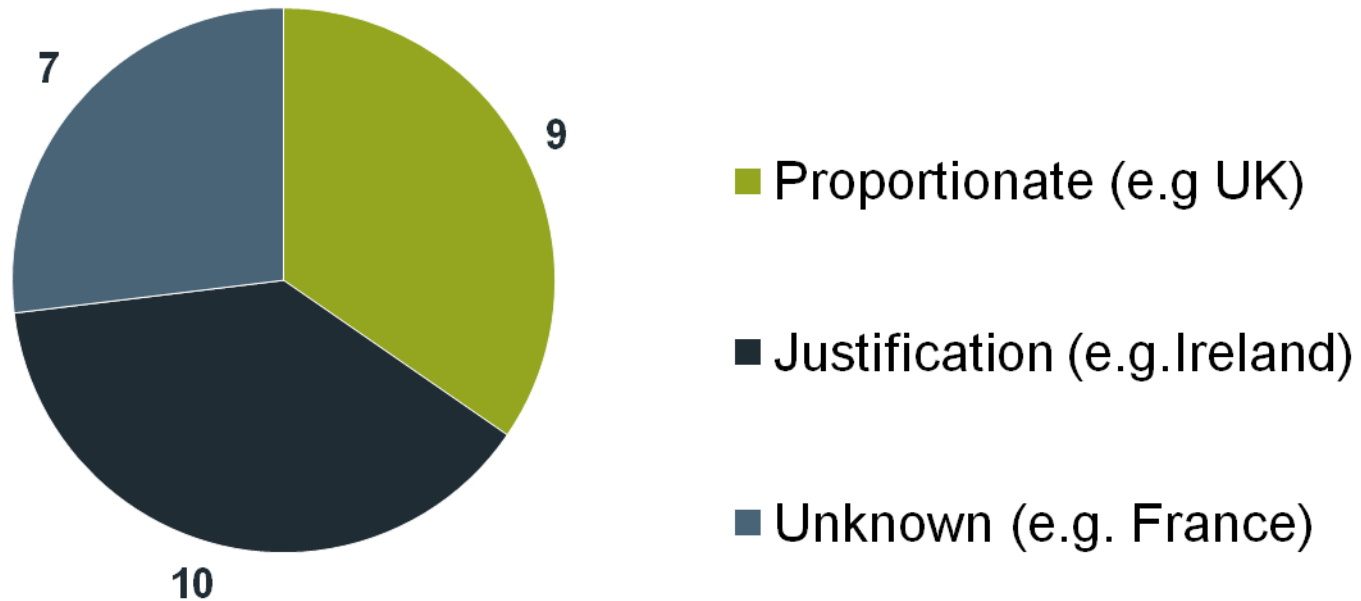
## Current EU Directive: Data Publication

- Prescription over published data varies considerably
- Bodies involved in publishing data also vary:

Who publishes data?	Frequency
Government Department	4
Insurance Regulator	11
National Agency	8
Actuarial Association	7
Industry Association	8
Individual companies	7
Other	1

# Background

## Current EU Directive: Relation of Data to Pricing



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# Background

## Current EU Directive: Application of Legislation

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- Consumer Protection – applies to policies sold to domestic residents, e.g. UK
- Prudential supervision – applies to domestic insurers, e.g. Belgium
- Consumer Protection and Prudential supervision – e.g.
  - Ireland – opt-out applies so Irish insurers can use gender domestically and cross-border
  - Cyprus – limited opt-out so Cypriot insurers cannot use gender in selling critical illness insurance to e.g. UK residents!

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# Background

## UK implementation of EU directive

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- Implemented April 2008
- Gender allowed as a rating factor for all types of insurance
- Data - individual company level or pooled
- Pricing - proportionate to the data, but says that other factors affect the premium rates
- UK legislation applies to insurance sold to UK residents (whether by UK or overseas insurers) but does not apply to UK insurers selling overseas to non UK residents.

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# Background

## The “Test-Achats” case

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- Belgium adopted the Opt out for life insurance/annuities only
- Action brought in June 2008 by Test-Achats in the Belgian Constitutional Court that law is incompatible with the principle of equal treatment for men and women embedded in constitution
- Court decided that validity of Article 5(2) of Directive 2004/113 needed to be referred to the Court of Justice of EU.

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# Background

## The Advocate General's Opinion

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- Founding principles (i.e. Equality) override the EU directive
- Opt out is against EU principle of equal treatment
- 3 year transition period
- Impacts all future insurance premiums (and benefits?) after 3 years, i.e. existing as well as new business.

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# Background

## The Advocate General's Opinion

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- Purpose of Directive is to combat discrimination
- Gender discrimination only permissible if it can be established with certainty that differences between men and women necessitate such differences:
  - Opt out does not focus on clear biological facts; many other factors impact risk e.g. economic, social, individual habits
  - Use of gender as a substitute criterion for other distinguishing features is unacceptable
- Gender is something person has no influence over
- Age is different to gender
- No party submitted that the introduction of unisex rates would seriously endanger private insurance systems.



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# Background

## The ECJ judgment – 1 March 2011

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- Conclusion consistent with the Advocate General:
  - *“Equality between men and women is a fundamental principle”*
- But a significant focus on the lack of a time-limit for the opt-out clause:
  - *“There is a risk that EU law may permit the derogation from the equal treatment of men and women, provided for in Article 5(2) of Directive 2004/113, to persist indefinitely.”*
  - *“such a provision, which enables the Member States in question to maintain without temporal limitation an exemption from the rule of unisex premiums and benefits, works against the achievement of the objective of equal treatment ... and is incompatible with Articles 21 and 23 of the Charter.”*
  - *“That provision must therefore be considered to be invalid upon the expiry of an appropriate transitional period.”*
  - ***“Article 5(2) of Council Directive 2004/113/EC ... is invalid with effect from 21 December 2012.”***

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# Background

## The ECJ judgment: What we know

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- Must use unisex pricing for new policies from 21 Dec 2012.

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# Background

## The ECJ judgment: What we don't know

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- Process for implementation
- Ability to collect gender?
- Application to policies sold before 21 Dec 2007?
- Application to policies sold 21 Dec 2007 to 21 Dec 2012?
- Scope of unisex pricing for new policies:
  - By product (Group?)
  - By jurisdiction
- Will legislation restrict product design/use of proxies/target marketing
- Does decision impact on underwriting of diseases that impact genders differently
- ... and lots more!

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# What Happens Next?

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- **WE DON'T KNOW**
- If HM Treasury enacts UK legislation, we think:
  - Risk of retrospective application is low (except possibly reviewable/renewable)
  - Risk that legislation will outlaw collecting gender is low
  - Unisex pricing for new policies will be limited to individual policies
  - Unisex pricing will not be **explicitly** defined
  - Legislation will apply to policies sold to UK residents
  - Legislation will not **explicitly** restrict product design/use of proxies/target marketing
- It will happen
- New EU Directive or Member State implementation?
- Review of legislation by commission?

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# Agenda

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- Background
  - The 2004 EU Gender Directive
  - The Test Achats case and the ECJ judgment
- What Happens Next?
- **People's Survey**
- Implications for insurers
- Discussion

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# People's survey

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To find out from the general public:

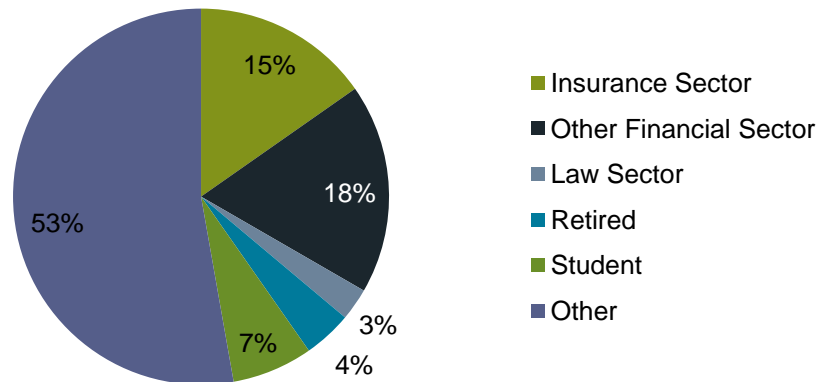
- Their awareness of this EU Gender Directive and ruling
- Their reactions
- Their understanding of the ruling

# People's survey results (1)

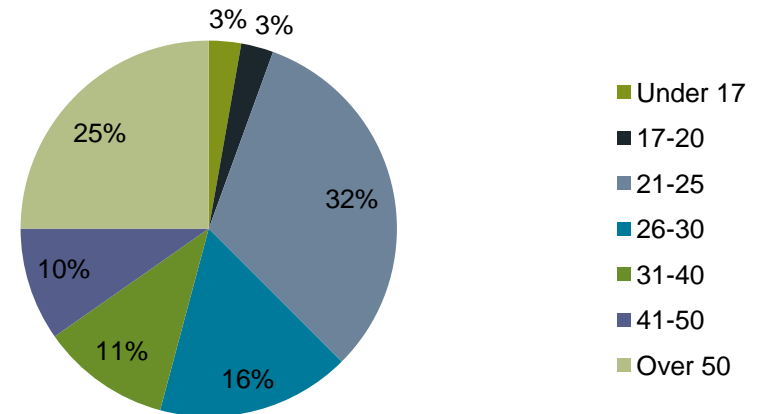
## Background information

- 72 responds – 32 (44%) male, 40 (56%) female

**Occupation**

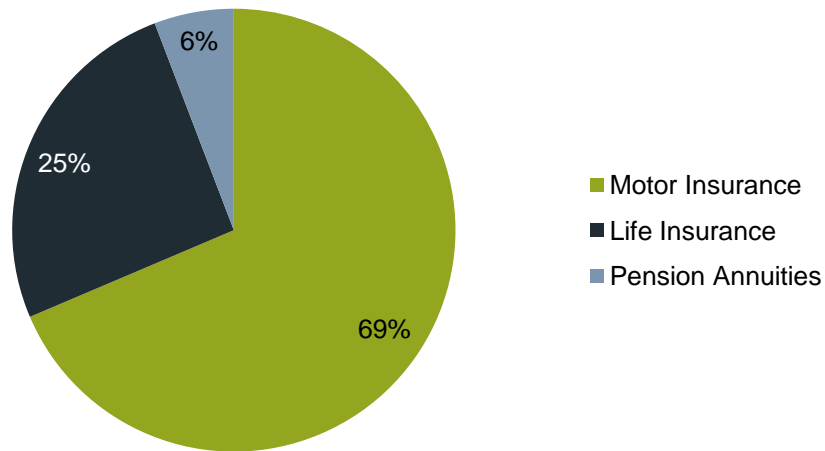


**Age**

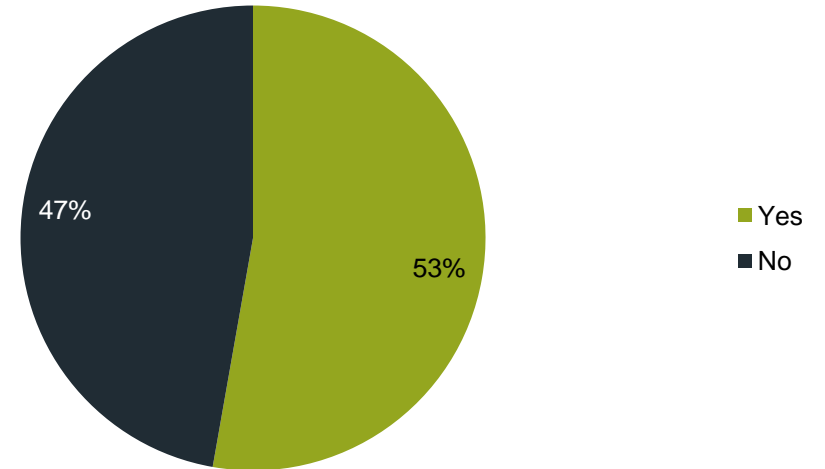


# People's survey results (2)

**Insurance Products purchased  
in the past**



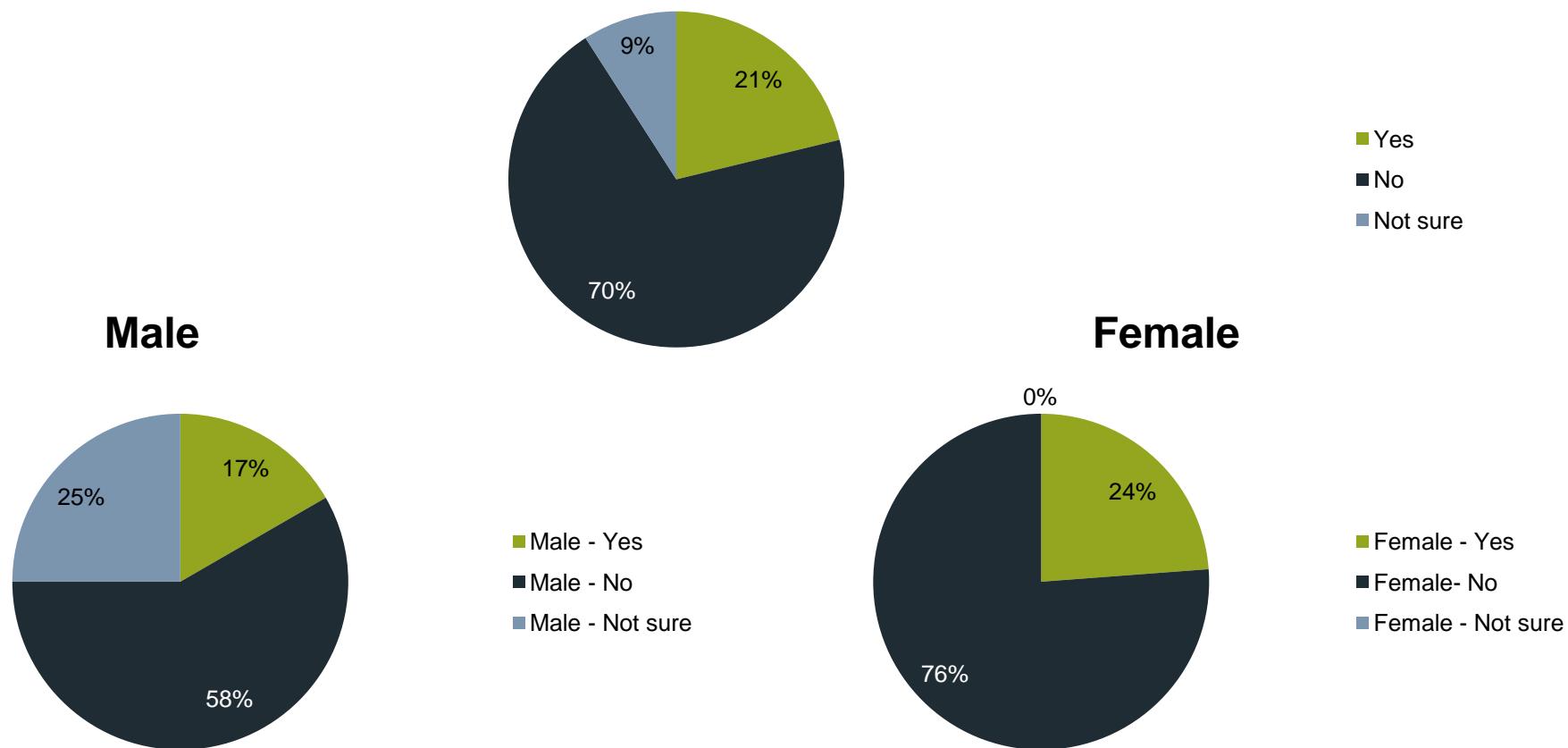
**Have heard of the Gender Ruling**





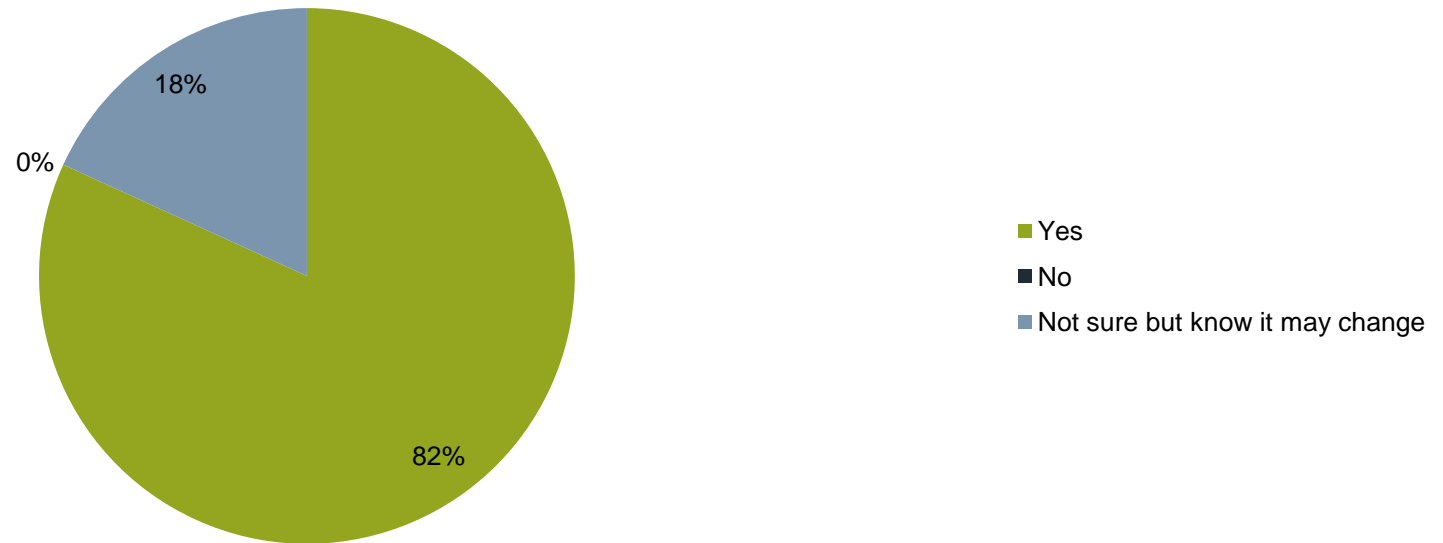
# People's survey results (3)

Is it fair to ban the use of gender in assessing risk?



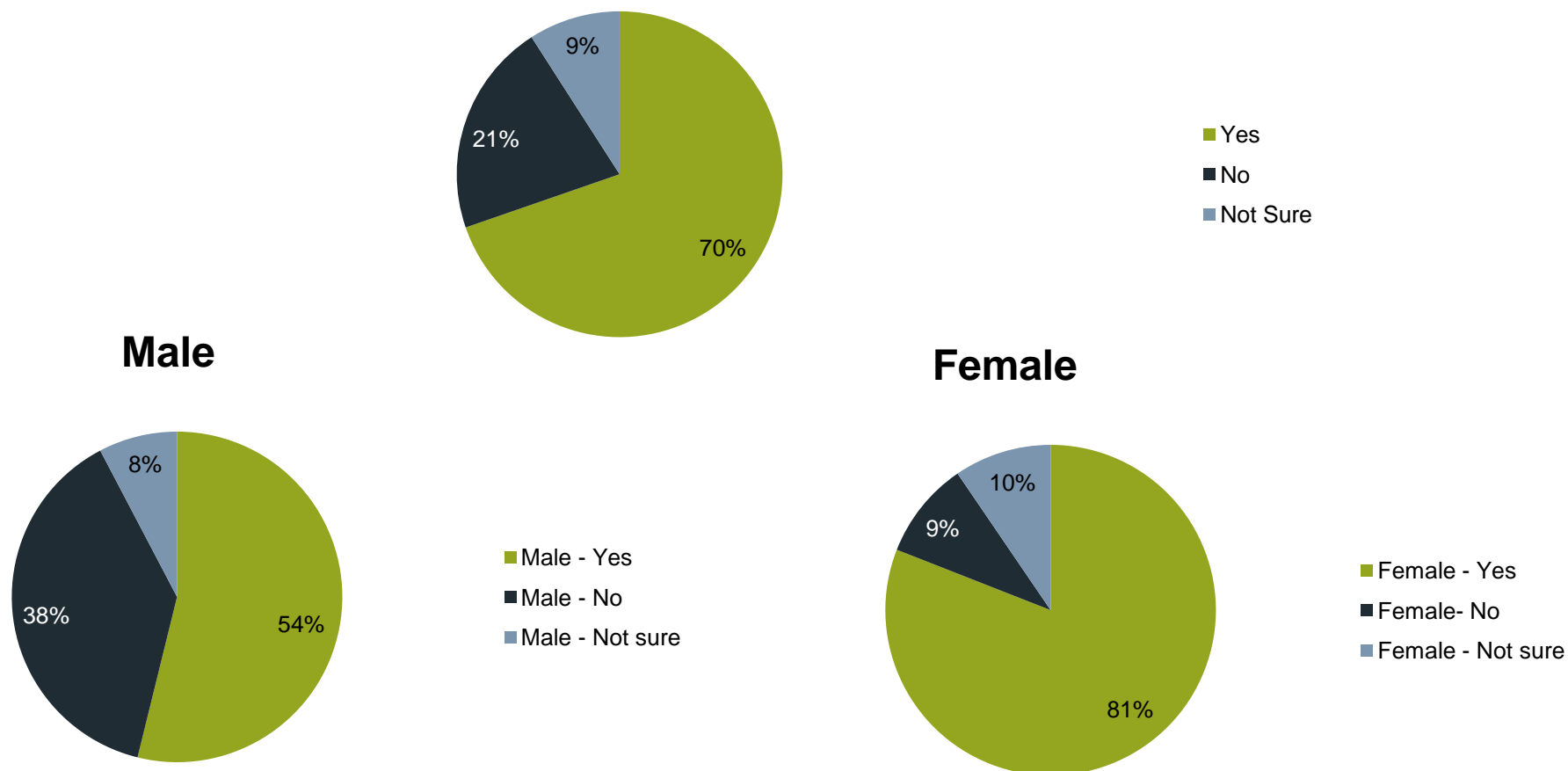
# People's survey results (4)

**Do you understand how this may affect the premiums on Motor Insurance, Life Insurance and Pension Annuities?**



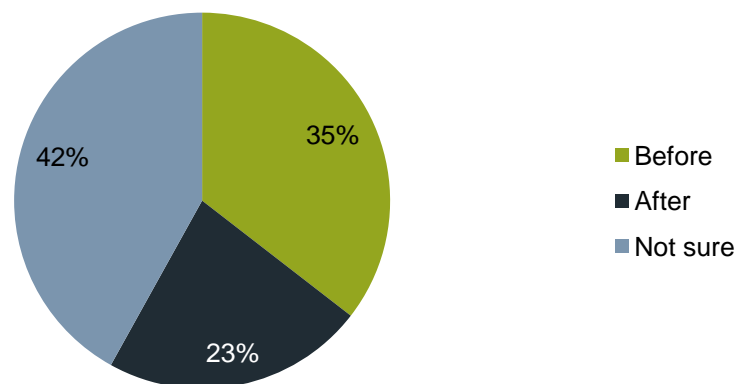
# People's survey results (5)

Do you think the changes may affect you?

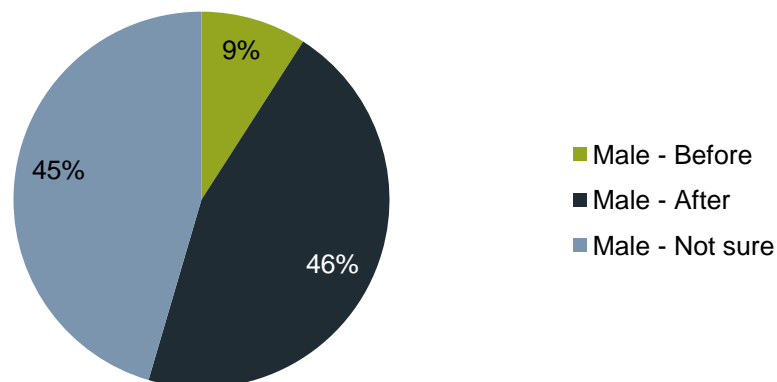


# People's survey results (6)

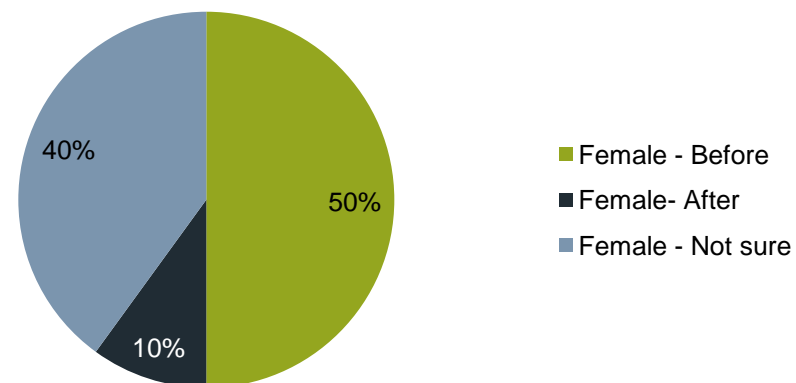
## Purchasing pattern



## Male



## Female



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# Agenda

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- Background
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  - The Test Achats case and the ECJ judgment
- What Happens Next?
- People's Survey
- **Implications for insurers**
- Discussion

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# Implications for Insurers

## Products affected

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- Motor
- Private Medical
- Life Term Assurance
- Critical Illness
- Annuities

# Implications for Insurers

## What are the gender differentials?

Type of business	Differential
Motor Insurance	Females lower at all ages except 70+
PMI	Females 60% higher at ages 35-50 but lower at retirement ages
Term Assurance	Male 20%-25% higher than Female
Critical Illness	<ul style="list-style-type: none"><li>• Male / Female very similar at younger ages</li><li>• Male higher than Female from age 45</li></ul>
Income Protection	<ul style="list-style-type: none"><li>• Female 50%-80% higher than Male</li><li>• Except Holloway societies!</li></ul>

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# Implications for Insurers - Term Assurance

## How important is gender?

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Approximate scale of key rating factors for Term Assurance

Rating factor	Relative importance
Gender (Male v Female)	1.3 x
Smoking status (Smoker v Non-smoker)	2 x
Age (60 v 30)	10 x



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# Implications for Insurers - Term Assurance

## Impact on demand

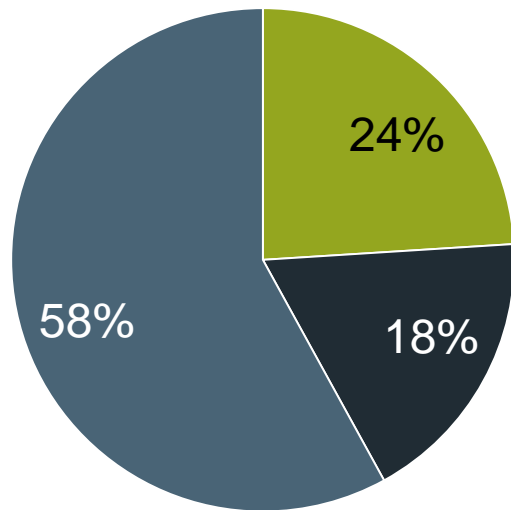
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- Equal premiums based on previous mix
  - Male premium £8.06; Female £6.71 (age 35, term 25, SA £150,000)
  - Previous mix 60% male, 40% female
  - Equalised premium = £7.52 per month
- But...
  - Allow for any skew in our mix v market...
  - ...and consider how varies, e.g. by sum assured...
  - ...and how demand will differ with unisex pricing...
  - ...and include a margin for uncertainty...
  - ...and include costs for implementation...
- and premium may not be much lower than £8.06
- Unlikely to materially affect demand

# Implications for Insurers - Term Assurance

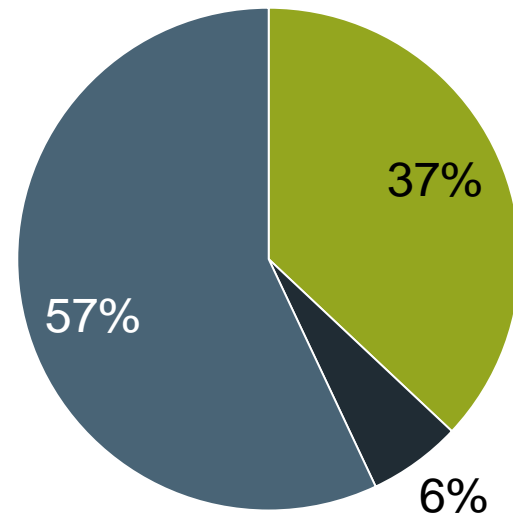
## Gender profile

Sum Assured £0 - £50,000



■ Male ■ Female ■ Joint Life

Sum Assured £500,000 +

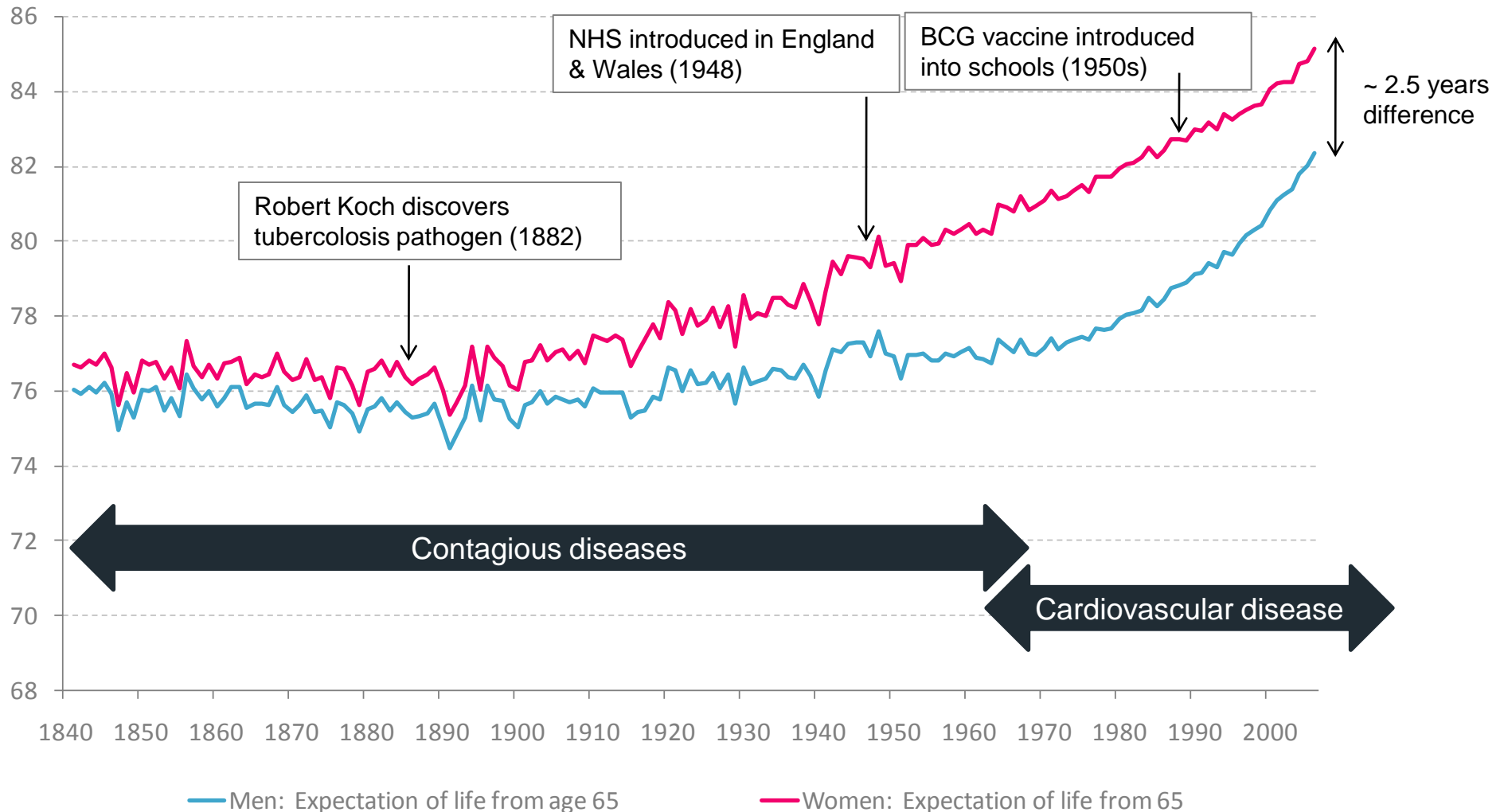


■ Male ■ Female ■ Joint Life

Source: Life-only Level Term quotation data from Assureweb for January 2011

# Implications for Insurers - Annuities

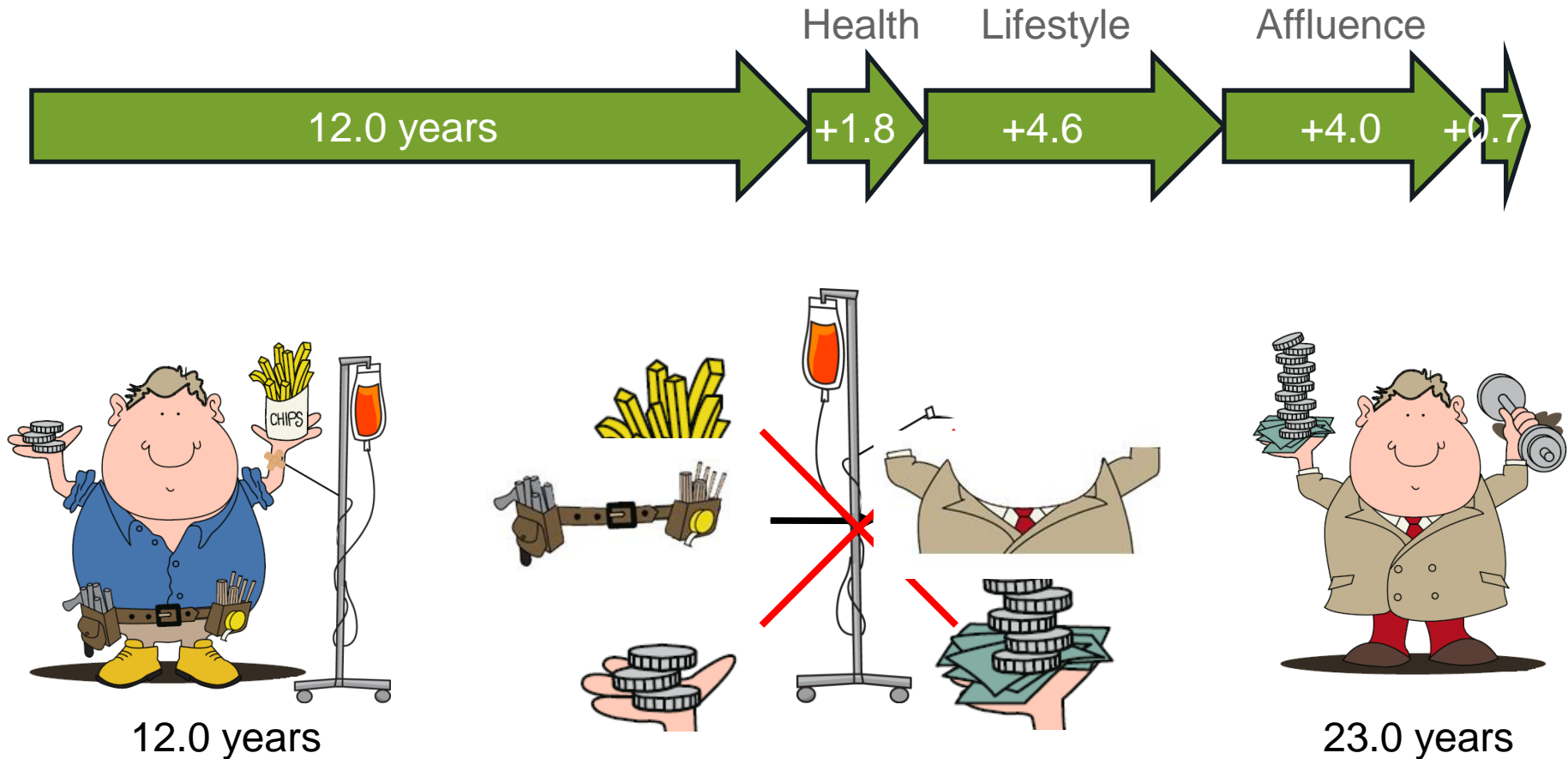
## Why use gender pricing? Life expectancy



Source: Club Vita calculations based upon data from ONS and Human Mortality Database ([www.mortality.org](http://www.mortality.org))

# Implications for Insurers– Annuities

## Other (non gender) factors



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# Implications for Insurers - Annuities

## Reasons for gender differences?

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### Behavioural differences

- Differences in smoking patterns and lifestyles
- Women more risk averse?

### Biological differences

- Longer female life expectancy: to care for young
- Male hormones can have drawbacks, female hormones can be beneficial...

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# Implications for Insurers - Protection

## What are the protection gender differentials?

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Type of business	Differential
Mortality	Male 20%-25% higher than Female
Critical Illness	<ul style="list-style-type: none"><li>• Male / Female very similar at younger ages</li><li>• Male higher than Female from age 45</li></ul>
Income Protection	<ul style="list-style-type: none"><li>• Female 50%-80% higher than Male</li></ul>

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# Implications for Insurers

## Current Private Motor Market

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- 28m private cars in UK in 2011
- GWP £9.5bn in 2009
- Over 60 insurers
- Top 10 insurer – 77% market share
- Top 5 insurer – 55% market share
  
- 37m full licence holder in UK in July 2011
  - 45% female and 55% male

# Implications for Insurers

## How important is gender?

Approximate scale of key rating factors for Motor

Rating factor	Relative importance
Gender* (Male v Female)	1.1 x
Postcode* (Birmingham v Kent)	1.5 x
NCD* (0 years v 10 years)	1.7 x
Vehicle Group* (BMW X5 v Corsa)	2.1 x
Age** (20 v 50)	5.9 x

\*Based on average premiums of a 30 year old male quotes from moneysupermarket.com

\*\* Based on average premiums of Golf GTI, male quotes from moneysupermarket.com



# Implications for Insurers - Motor Male V Female drivers

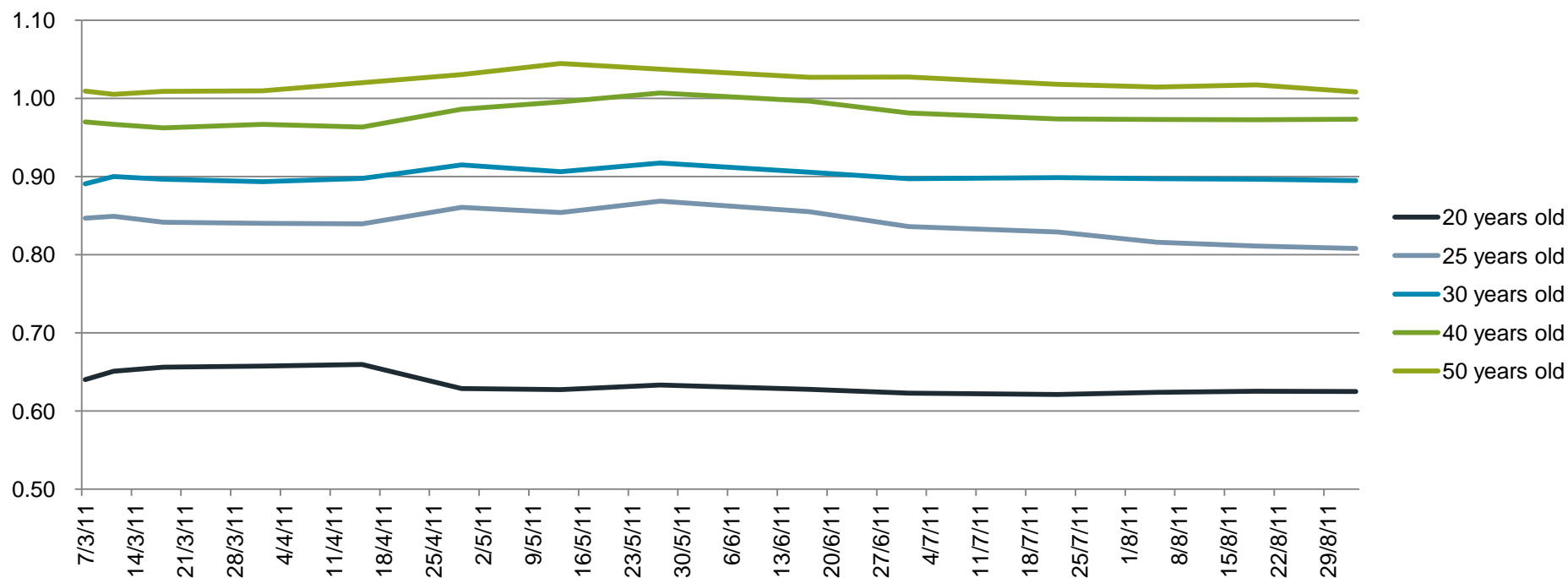
## Differences – facts or myths

Male	Female
More drink driving accidents (60% are male)	Higher risk age 75+
Higher risk at younger age groups	More sensible
Speeding (80% in 2006)	Drive slower
All driving offences (90% in 2006)	Better drivers
Higher mileage	Less sense of directions
Larger vehicles	Smaller vehicles
More major accidents	More minor accidents

# Implications for Insurers - Motor

## Female / Male rates from March to Sept 2011

Ratio of Female to Male Average Premium Rates  
by Age

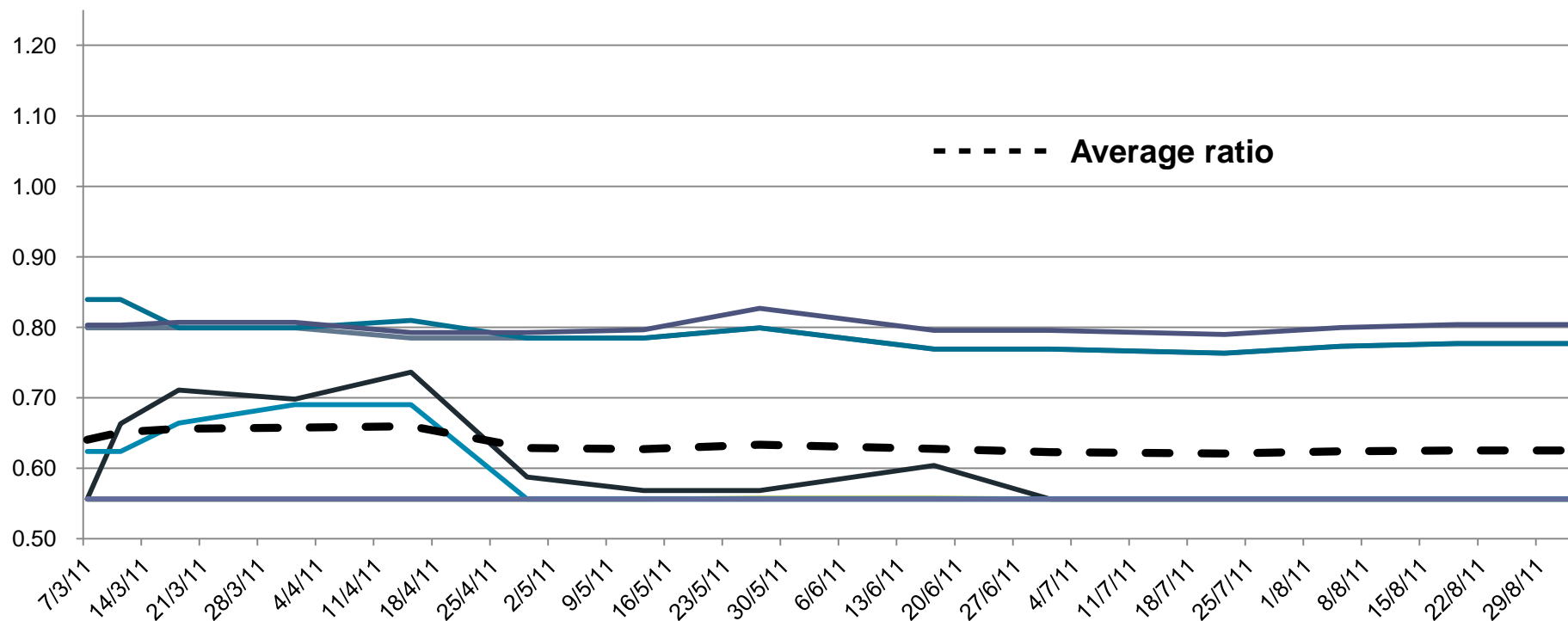


Source: Moneysupermarket.com

# Implications for Insurers - Motor

## Female / Male rates from March to Sept 2011

Ratio of female to male premium rates (20 years old)  
By insurers

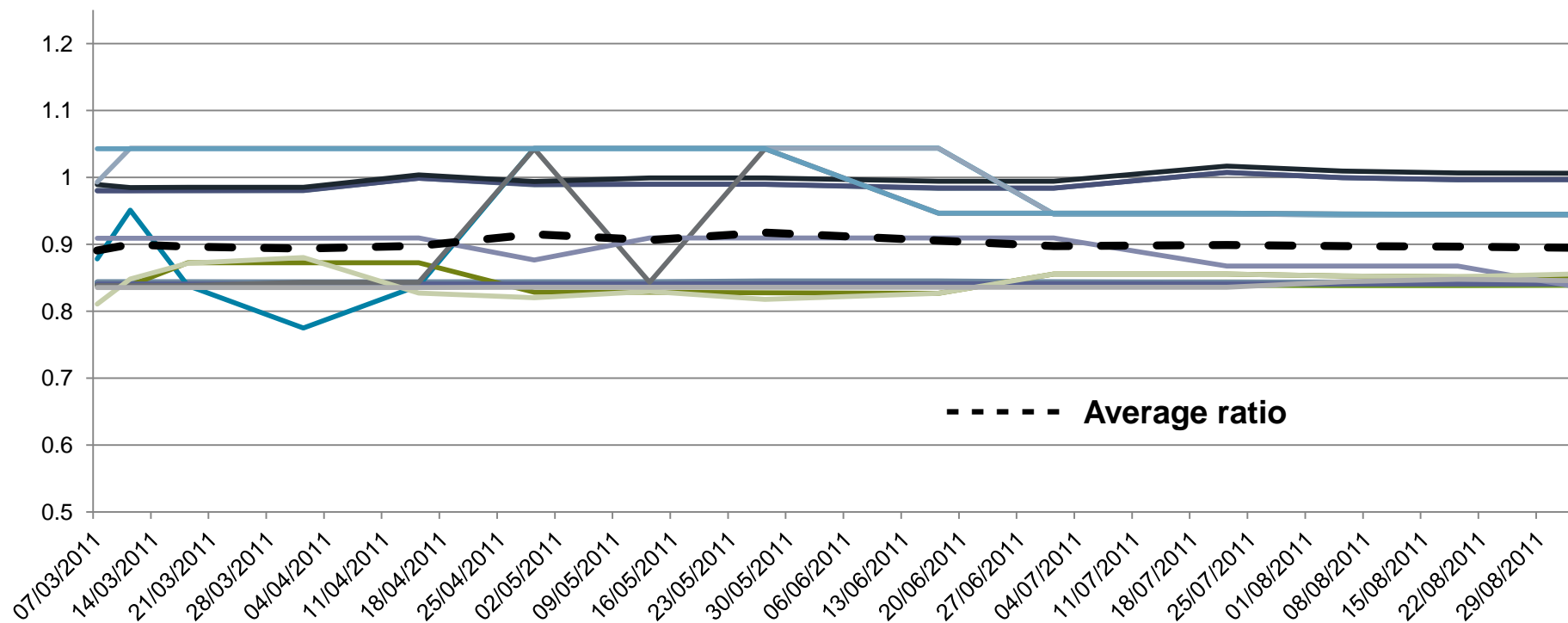


Source: Moneysupermarket.com

# Implications for Insurers - Motor

## Female / Male rates from March to Sept 2011

Ratio of female to male premium rates (30 years old)  
By insurers

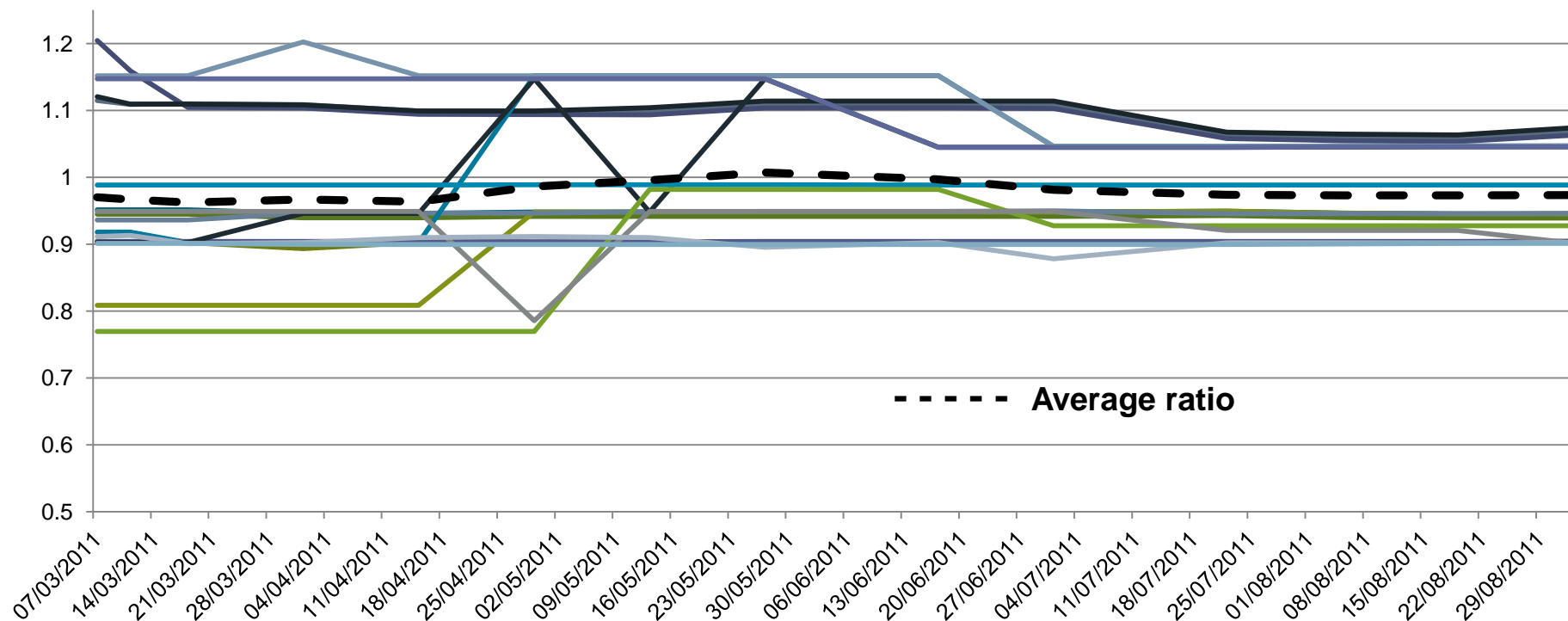


Source: Moneysupermarket.com

# Implications for Insurers - Motor

## Female / Male rates from March to Sept 2011

Ratio of female to male premium rates (40 years old)  
By insurers

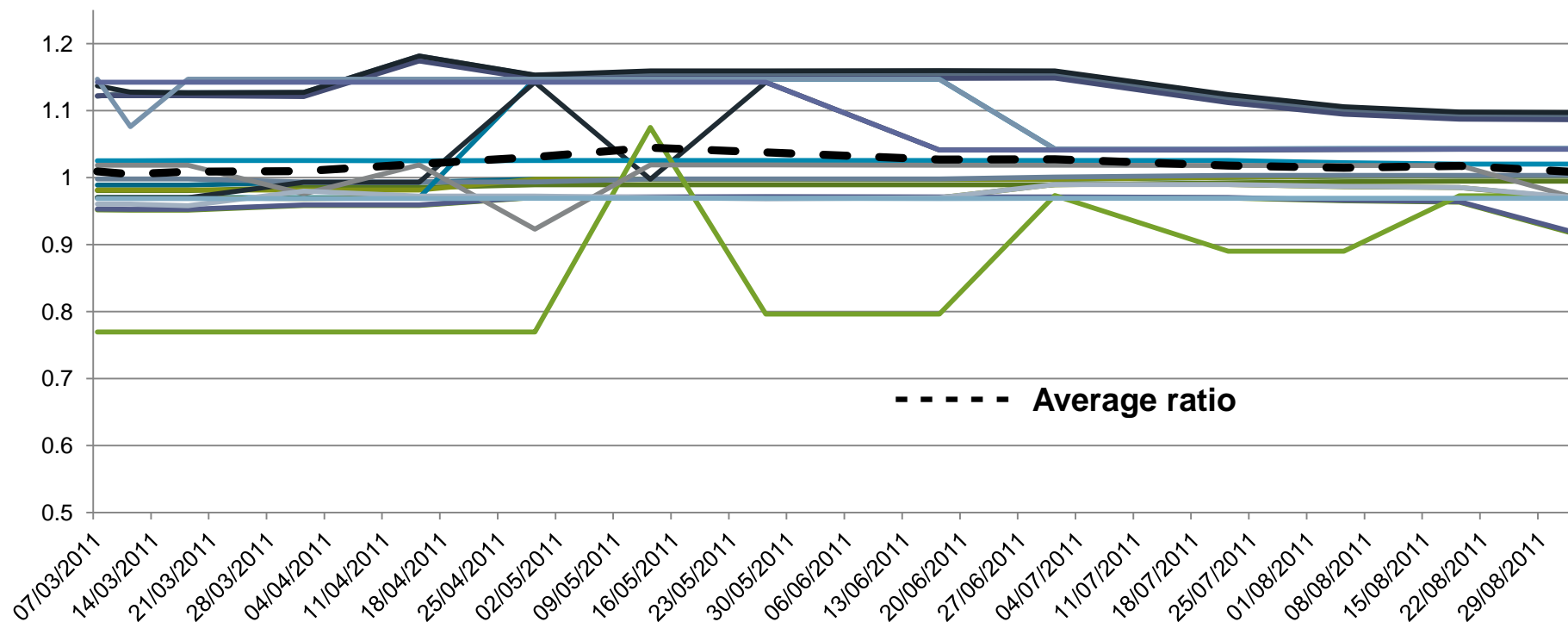


Source: Moneysupermarket.com

# Implications for Insurers - Motor

## Female / Male rates from March to Sept 2011

Ratio of female to male premium rates (50 years old)  
By insurers



Source: Moneysupermarket.com

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# Implications for Insurers

## The Transition Period

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- New Business from 21 Dec 2012 .... but when will we know the new legislation?
- Substantial systems impact
  - Lower if can collect gender in application process
- Early or late adopter?
- Prioritisation of changes by product
- Need to allow for retrospection (if applicable)
- Need to allow for anti-selection
- IFAs may target one gender (“Buy now while stocks last”)
- Dec 2012 review clause?
- Test future targeting strategies?

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# Implications for Insurers

## How to switch new business terms

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- Approach to unisex pricing
  - Assumed gender mix
  - Allowance for business mix risk
  - What constitutes a new contract
- Unisex underwriting
  - Revise questions
  - Review ratings
- Reinsurance terms



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# Insurance Market

## When to switch

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- Big bang or phased?
- Gradual or step change?
- Lapse risk
- Other things happening in December 2012
- How to manage quote guarantee periods?
- How to manage pipeline?
- Christmas holidays
- ...depends on the rest of the market

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# Implications for Insurers

## Potential consequences

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- Initial market volatility
- Redistribution impact
- Competition will establish new level
- Rebroking opportunity
- Change in buying patterns
- New product design
- Introduction of new rating factors
- New commission strategies
- Higher loadings

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# Implications for Insurers

## The next battlefield?

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### Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (2008)

- “The aim of this proposal is to implement the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation outside the labour market.”
- “This proposal builds upon Directives ... 2004/113/EC”
- “Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be key factors for the assessment of risk.”

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# The final word....

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“Cette victoire se situe dans la droite ligne de la position de Test-Achats émise dès 1995 visant à interdire de faire varier les primes en fonction de facteurs que le consommateur ne maîtrise pas, comme l’âge en assurance auto, le sexe, l’état de santé...”

*Test-Achats website 1 March 2011*

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# The final word.... From our people's survey participants!

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*“The law is an a\*\*! The next logical step from this will be to say age shouldn't be used for statistical purposes because it's "ageist". That's clearly nonsensical too.”*

*“I think that treating everyone equally is a good thing - but I suspect that the insurance companies will use it as an excuse to raise their premiums regardless of the different gender risks.”*

*“Insurance is all about the statistical likeliness that a client will make a claim - which is affected by everything including gender.”*

*“The ECJ ruling sucks and makes me hate the ECJ even more.”*

# Discussion

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Expressions of individual views by members of The Actuarial Profession and its staff are encouraged.

The views expressed in this presentation were those of at least one of the presenters when the slides were written last week and are not those of our employers.

The presenters are actuaries – not lawyers! – and do not accept any liability for the content of these slides.

