

DECISION

File No. 11.17.01.26

Decision No. 10/2002 – 2/9/2002

Present: Christodoulos Tselepos (Chairman), Costis Efstathiou, Andreas Sophocleous (Members)

Lawyers – A.Anggelides, Chr. Pourgourides, D.Liveras, A.Haviaras and I.Loizidou

Decision on Health Insurance Companies concerning possible infringement of section 4 and/or 6 of Law 207/89

On the 5th of November 2001, two doctors filed a complaint on behalf of their clinics against a cartel set up by a number of insurance companies that offer health protection plans. As a cartel, the insurance companies agreed to liaise only with certain specific clinics to provide medical services to the customers of the insurance companies at predetermined fees.

The cartel was comprised of the following 11 insurance companies together with Mednet Hellas which investigated and acted as a counsellor for the various claims of other insurance companies.

1. Universal Life Insurance Co. Ltd
2. Interlife Insurance Co. Ltd
3. Aspis Pronia Insurance Company Ltd
4. Atlantic Insurance Ltd
5. Liberty Life Insurance Ltd
6. Eurolife Ltd
7. American Life Insurance Co. Ltd
8. Bupa Insurance Ltd
9. Cyprus General Insurances Ltd
10. Cyprus National General Insurance Ltd
11. Laiki Insurance Company Ltd

The CPC in its decision examined the following issues:

- (a) whether there was a cartel formed by the twelve companies;
- (b) whether the formation of the network was subject to notification;
- (c) whether there was an infringement of section 4;
- (d) whether the concerted practise fell within the Block Exemption relating to the Insurance Company Sector;
- (e) whether there was an infringement of section 6.

The CPC held the following:

1. A cartel was formed by the twelve insurance companies who created:
 - a) a list of clinics, based on specific criteria relating to the quality and technology of medical services.

b) a price list, which was negotiated between the cartel and each clinic belonging to the list separately.

2. The list of clinics did not infringe section 4 of the Law. On the contrary, the list, which laid down specific criteria, indirectly promoted the better medical services from clinics which ultimately benefited the public at large and not only the clients of the insurance companies in the cartel.
3. The price list was a direct price fixing practise of the kind not justified by section 5 of the Law.
4. Their practise neither fell under the Block Exemption relating to the Insurance Company sector.
5. The cartel amounted to a collective entity holding a dominant position in the market in relation to section 6 of the Law.
6. Their decision to include only certain clinics in the list of clinics, and their decision to fix the prices charged for each medical service performed by the doctors or the clinics amounted to an abuse of their dominant position contrary to section 6 of the Law.
7. The insurance companies also violated sector 20 of the Law as they did not notify the formation of the cartel as per the provisions of the Law.

The CPC therefore, imposed:

- (a) a fine of CY£200.000 for the infringement of sections 4(1)(a), 6(2)(a) and 20. The fine was divided between the 12 companies based on their market share;
- (b) all the agreements between the cartel and the clinics are void;
- (a) each insurance company could negotiate freely with each clinic based on the criteria set out in the list of clinics.
- (b) The insurance companies must notify their clients that the list of clinics is no longer applicable.