

DECISION

File No: 11.17.01.40

Decision No: 9/2002-27.8.2002

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

Lawyer of Pancyprian Dentist Association: Mr Marios
Kyriakides

Decision on Pancyprian Dentists Association for possible infringement of section 4(1)a of Law 207/89

On the 23/1/2002 the CPC issued a “communication style” decision condemning price-fixing practices by professional associations and directed all professional associations to abolish tariffs/fee-scales for services rendered by professionals within one month from the publication of the decision in the Official Gazette of the Republic of Cyprus.

Despite the “communication style” decision, the Pancyprian Dentists Association (PDA) issued a revised fee-scale setting minimum prices. The fee-scale was communicated to all its members and at a later stage to the Ministry of Health for approval (adoption by the House of Representatives would have had to be followed).

On the 9/4/2002 the CPC instructed its Service to initiate an investigation as to the possible infringement of section 4(1) of Law 207/89 by the PDA.

The CPC in its decision held that:

- (a) The members of professional associations, as independent operators who offer services with a view to making profit, constitute ‘undertakings’ and the PDA is an “association of undertakings” within the meaning of section 2 of Law 207/89.
- (b) The fact that the fee-scale was communicated to all its members before approval by the Parliament, as per the governing law of the PDA, was clear evidence of their intention to fix uniform prices for the profession.
- (c) The issuance of a revised “fee-scale” by the PDA amounts to infringement within the meaning of section 4 (1) of Law 207/89, which applies to all agreements between undertakings, concerted practices and decisions by associations of undertakings which have as their object or effect the prevention, restriction or distortion of competition. The professional must be entirely free to fix the price of his services and the client must be equally free to accept it, negotiate it or approach another professional.

- (d) The provision under section 7 of Law 207/89, as amended by 87(I)/00 does not apply in this instance. The fact that price-fixing arrangements by professions are expressly provided for (although not specifically required) by legislation governing those services is irrelevant.

The CPC, therefore imposed:

- (a) a fine of 6% of the Association's turnover;
- (b) the condition to communicate to all its members and publish in three daily newspapers within a period of 15 days from the issuance of the decision an announcement directing that the "fee-scale" is no longer in force; and
- (c) failure to comply with (b) above would trigger a fine of CY£200 per day for as long as the infringement continues.