



**REPUBLIC OF ALBANIA
-COMPETITION AUTHORITY-
COMPETITION COMMISSION**

**DECISION
No. 247 of 9 October 2012**

**On
recommendations to the Financial Supervisory Authority in relation to the
compulsory motor third party liability (MTPL) insurance market**

The Competition Commission, composed of

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|---|---------|-------------|--------------|
| • | Lindita | Milo (Lati) | Chair |
| • | Rezana | Konomi | Deputy Chair |
| • | Servete | Gruda | Member |
| • | Koço | Broka | Member |
| • | Iva | Zajmi | Member |

in its meetings of 4 and 9 October 2012 reviewed the Case with:

Subject-matter: Determination whether there is a prohibited price-fixing agreement in the compulsory MTPL market.

Legal basis: Law No. 9121 of 28 July 2003 “On Competition Protection”—Articles 24 (d) and 26; Law No. 8485 of 11 November 1999; Administrative Procedure Code.

After reviewing the

- Report on the in-depth investigation into the compulsory motor third party liability (MTPL) insurance market, submitted by the Competition Authority Secretariat, and the Secretary-General’s Report;
- Discussions at the round table with the Financial Supervisory Authority on 24 September 2012,

THE COMPETITION COMMISSION NOTES THAT:

1. Competition Commission Decision no. 222 of 11 April 2012 “On initiating the investigation into the compulsory motor third party liability (MTPL) insurance

market,” instructed the opening of an investigation into that market for the period of 1 January 2011-30 April 2012.

2. Compulsory domestic MTPL insurance is a contract concluded between an insurer (insurance company) and a vehicle owner who accepts the insurance terms and conditions. The insurance terms and conditions are an integral part of the insurance contract, and are approved by the Financial Supervisory Authority. This product is part of the compulsory insurance class, and does not have any substitutes.
3. The insurance policy selling premium (final price) remains the determinant factor with regard to its substitutability on the demand side, especially in the case of domestic MTPL, which is compulsory for vehicle users.
4. The Financial Supervisory Authority adopts the rules on the specification of the general conditions of compulsory insurance and the margin of technical reserves and provisions. Insurance companies set their own insurance premium tariffs in accordance with the market conditions, and apply them after communicating them to the Authority. When the Financial Supervisory Authority finds the general insurance conditions to be noncompliant with the Law and regulations, it adopts decisions on how insurance companies are to make those conditions compliant.
5. Following an amendment to Article 10 of the Law on Compulsory Insurance in the Transport Sector, the power to approve compulsory insurance premiums was transferred to insurance companies, which now have an obligation only to communicate any new tariffs to the Financial Supervisory Authority in advance of application.
6. In practice, however, the Financial Supervisory Authority Board adopted Decision No. 111 of 28 July 2011 (i.e. after the adoption of Law No. 10455 of 21 July 2011 “Amendments to Law No. 10076”) the Financial Supervisory Authority approved the risk premium table used for the calculation of the level of technical provisions for compulsory motor third party liability insurance. The tables were prepared by the Association of Actuaries, where the investigation found cooperation among the competitors in setting the risk premium.
7. Pursuant to Article 10 referred to above, the Financial Supervisory Authority Board adopted Decision No. 110 of 28 July 2011 whereby it issued the Regulation on setting the level of technical provisions for compulsory motor insurance, which repealed the former Regulation No. 75 of 28 August 2009 “On compulsory insurance premiums in the transport sector”.

8. Article 1 of the Regulation states that the purpose of the Regulation is to specify the level of premiums and technical provisions, the content of the technical database, and the methods for calculating premiums and technical provisions related to compulsory transport insurance.
9. Article 4 of the Regulation provides that the Financial Supervisory Authority sets the risk premium for compulsory motor insurance products at least once a year, which is used as a basis for the calculation of the technical provision for unearned premiums.
10. Under Article 8 of the Regulation, Insurance companies inform the Financial Supervisory Authority ten days before the new compulsory motor insurance tariffs take effect, and attach to their letter of information the technical basis of calculation, including the calculation methodology and other support documentation.
11. When an insurance company applies compulsory insurance premium tariffs that are lower than the risk premiums listed in the Authority tables or that are such as to render a product not profitable, it should submit to the Financial Supervisory Authority a business plan which should include, inter alia, how the company will compensate for the losses.
12. Article 9(3) of the Regulation lays down a condition for insurance companies whereby they may change their compulsory insurance premium tariffs not more frequently than once every months.
13. Article 9(3) of the Regulation on setting the level of technical provisions for compulsory motor insurance is not in line with the spirit of Article 10 of Law No. 10076 of 12 February 2009 "On Compulsory Insurance in the Transport Sector," as amended, pursuant to which the Regulation was adopted. Under Article 10 of the Law, insurance companies set their own insurance premium tariffs in accordance with the market conditions. Given that market conditions are dynamic, that Article enables the liberalization of the prices, since companies should operate at different prices at different times; therefore there cannot be any time restrictions on price changes.
14. Under the Regulation adopted by the Financial Supervisory Authority insurance companies may change their prices only twice a year, which leads to inflexibility and inability for insurance companies to operate on a competitive market, the fundamentals of which are the demand and supply, which also set the prices of products on the market. In the conditions where eight non-life insurance companies

do not have power over prices for a period of six months, the domestic MTPL insurance prices are not set on the basis of demand and supply, therefore the market mechanism is blocked and does not allow for competition among companies the determinant factor of which in the case of MTPL insurance is its price.

15. Article 9(3) of the Regulation referred to above reduces the flexibility on the market for a period of six months even though market conditions may change constantly.
16. In developed countries the price of compulsory TPL insurance is determined on the basis of a Bonus-Malus system. The establishment of that system would enable each company to apply a selling premium for domestic MTPL insurance products on the basis of claims related to a policy holder, the experience and age of vehicle drivers, the engine power, etc. On the other hand, the system enables companies to be directly connected with an insurance policy holder, who, in case of an accident, receives compensation for individual health injuries, regardless who caused the accident.
17. Not only does the Bonus-Malus system increase competition, in its essence, by providing for the possibility for a company to apply differentiated prices for different clients and for the market to operate at competitive prices, but it also imposes penalties on drivers with risky road behaviour, which will have a positive impact on the reduced number of accidents.

FOR THESE REASONS:

The Competition Commission, pursuant to Article 24 (d) and (f) and Article 70 (2) of Law no. 9121 of 28 July 2003 “On Competition Protection”, as amended, with the proposal of the Secretariat,

DECIDED TO:

- I. Recommend the Financial Supervisory Authority to:
 - I.1. Amend Article 9(3) of Regulation No. 110 of 28 July 2011 “On setting the level of technical provisions for compulsory motor insurance”, whereby it should reduce the minimum period allowed for changing insurance premiums;
 - I.2. Implement the *bonus-malus* system in the near future. The system would provide opportunities of diversifying and applying differentiated premiums to individual compulsory motor insurance policies, which would thus increase competition among market operators;
 - I.3. Avoid joint work among actuaries from insurance companies in the process of calculating risk premiums, which should be carried out by the Financial

Supervisory Authority based on the data submitted by insurance companies independently.

This Decision shall enter into force immediately.

COMPETITION COMMISSION

Servete Gruda

(_____)
Member

Koço Broka

(_____)
Member

Iva ZAJMI

(_____)
Member

Rezana Konomi

(_____)
Deputy Chair

Lindita MILO (LATI)

CHAIRPERSON