



REPUBLIC OF ALBANIA
-COMPETITION AUTHORITY-
Competition Commission

D E C I S I O N

No. 50, Dated 21.03.2007

On

Imposing fines on companies operating in the compulsory insurance market, for the product “border insurance”

The Competition Commission, on its meeting on 21.03.2007, with the participation of:

- Mrs. Lindita Milo (Lati) Chairwoman
- Mr. Lush Përpali Deputy chairman
- Mrs. Servete Gruda Member
- Mr. Koço Broka Member

Discussed the following issue:

Subject: Limitation of competition resulting from the behaviour of insurance companies, coordination of their operations as formalized through the agreement dated 05.04.2005.

Legal basis: Law No. 9121, dated 28.07.2003 “On Protection of Competition”, Article 24, letter “d”, Article 4, paragraph 1, Article 74, paragraph 1, letter “a”, Article 17, paragraph 2, and Article 80.

Upon review of the Report prepared by the Work Group, dated 09.03.2007, the report of the Secretary General attached to the former, the hearing of the parties subjected to investigation, a consulting session with the Authority of Financial Supervision, and the review of related documentation,

N O T E D T H A T:

1. The agreement dated 05.04.2005, entered in between the insurance companies and approved by Decision No. 6, dated 18.5.2005 of the General Members’ Assembly, is unlawful, and in breach of Article 4, paragraph 1, letter “a” of Law

No. 9121, dated 28. 07.2003 “On Protection of Competition”, because based on it, the companies fix the price and partition the market.

2. The trading/Selling of Border Policy Insurance is performed only through the juridical agent Union Distribution Servis Albania (UDSA), on the basis of the 2-year contract with the Albanian Insurance Bureau (AIB), which operates as nominated representative of 8 (eight) insurance companies, on the basis of the agreement entered on 05.04.2005 between the insurance companies and approved by Decision No. 6, dated 18.5.2005 of the General Members’ Assembly;
3. The division of revenues from the sale of the border insurance Policy is done by ordinance of the Minister of Finance, based on the TPL market share of each company operating in the compulsory insurance market. Only for the year 2005, the division of revenues is based on percentages determined through the agreement dated 05.04.2005;
4. The Competition Commission, through its Decision No. 28 dated 23.12.2005 has required the immediate termination of such agreement, considered as unlawful because it causes the limitation of competition. Since such decision was not implemented, the Competition Commission was compelled to make the Decision No. 45, dated 19.1.2007 “On starting the fact-finding investigation procedure on insurance market regarding the TPL product”.
5. The prime tariffs for offering the compulsory insurance service, the Border Insurance Policy, applied directly by the companies or through their agents, are within the same margin as defined in Ordinance No. 12, dated 18.4.2006, issued by the Minister of Finance.
6. The competencies attributed to AIB by the bylaws issued by the Minister of Finance that regard intervention in the Border Insurance Policy market, are beyond the competencies defined by the law and the AIB Statute.

FOR THE ABOVE REASONS:

The Competition Commission, based on Article 24, letter “d”, Article 4, paragraph 1, Article 74, paragraph 1, letter “a”, Article 17, paragraph 2, and Article 80 of Law No. 9121, dated 28.07.2003 “On Protection of Competition”

D E C I D E D:

1. The prohibition of the agreement dated 05.04.2005 “On the creation of the pool of border insurance policy against third parties’ responsibility, held by owners of motorized vehicles” entered into between 8 (eight) insurance companies operating in the insurance market, specifically: Sigma sh.a., Sigal sh.a, Atlantik sh.a., Intersig sh.a., Interalbanian Sh.a, Albsig sh.a., Eurosig sh.a (former Dukagjini sh.a.), and Insig sh.a., as unlawful agreement because it limits

competition by enabling the said companies to fix the price and partition the market.

2. To impose a fine equal to 2% of the 2005 respective annual turnover on companies that are parties to the agreement dated 05.04.2005, and which are listed below:
 - Sigma sh.a.,
 - Sigal sh.a.,
 - Atlantik sh.a.,
 - Intersig sh.a.,
 - Inter Albania sh.a.,
 - Albsig sh.a.,
 - Insig sh.a.,
 - Eurosig sh.a.,
3. To notify the Albanian Insurance Bureau on the cancellation of the agreement dated 05.04.2005 “On the creation of the pool of border insurance policy against third parties’ responsibility, held by owners of motorized vehicles” as unlawful agreement.
4. Të notify the insurance companies that the trading/offering of border insurance policy service shall be performed by the companies themselves, through their offices and/or their physical or juridical agents. The offering of the service through agents shall be regulated by contracts.
5. To communicate such decision to the Authority for Financial Supervision.
6. The Tax and Duties Police shall implement the imposition of fine, defined under paragraph 2 of this Decision.
7. The Secretariat is in charge for the implementation of this Decision and the notification of the relevant parties.

This decision enters into effect immediately.

This Decision was proclaimed today, on 21.03.2007, in Tirana.

THE COMPETITION COMMISSION

Lush Përpali

(_____)

Deputy chairman

Servete Gruda

(_____)

Member

Koço Broka

(_____)

Member

Lindita Milo (Lati)

CHAIRWOMAN