



REPUBLIC OF ALBANIA
-COMPETITION AUTHORITY -
Competition Commission

No. ___ Prot.

Dated : 04/ 05 / 2009

DECISION

No. 109, dated 04.05.2009

“On a recommendation for the revision of paragraph 1 of the Decision No. 50, dated 12.12.2008, adopted by the Administrative Council of the Institute of the Health Care Insurance”

The Competition Authority, in its meeting held on 04.05.2009, with the participation of:

- | | |
|----------------------------|-----------------|
| ▪ Mrs. Lindita Milo (Lati) | Chairwoman |
| ▪ Mr. Lush Perpali | Deputy chairman |
| ▪ Mrs. Servete Gruda | Member |
| ▪ Mr. Koço Broka | Member |
| ▪ Mrs. Rezana Konomi | Member |

Discussed the following issue :

Subject: “Assessment of the Decision No. 50, dated 12.12.2008, adopted by the Administrative Council of the Institute of the Health Care Insurance, titled “On the approval of standard contract model between the Institute of the Health Care Insurance, the pharmacies, pharmaceutic agencies, importing warehouses, distributors of pharmaceutical products and the three-party contract between the Institute of the Health Care Insurance, the Tirana University Hospital Center and the Pharmaceutical Warehouses for the year 2009.”

Legal basis : Article 24, letter “f”, Article 69, paragraph 1, letter „a“ and Article 70 of Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition”.

The Competition Commission, upon reviewing the following documentation:

- Complaint No. 23/01, dated 23.01.2009 filed by the Independent Trade Union of the Open Network Pharmacists;

- The Report presented by the Secretary General of the Competition Authority; and,
- The claims raised by the Institute of the Health Care Insurance during the consulting session with the Competition Commission on 23 April 2009;

NOTED THAT:

1. Decision No. 50, dated 12.12.2008, titled “On the approval of standard contract model between the Institute of the Health Care Insurance, the pharmacies, pharmaceutical agencies, importing warehouses, distributors of pharmaceutical products and the three-party contract between the Institute of the Health Care Insurance, the Tirana University Hospital Center and the Pharmaceutical Warehouses for the year 2009“, under paragraph 1 has the following text: “The approval of contract type F/2009 on the basis of the format and the content enclosed with this decision, and with the amendment as follows below and proposed by the Administrative Council: „The determination of the limit value of the monthly reimbursement of the price of medicines, in the pharmacy and contracted pharmaceutical agencies with a value equal to 1 500 000 lekë. If this limit is overcome, the pharmacy and contracted pharmaceutical agencies can be reimbursed 2% of the value [which is above the limit].“

From the consulting session with the representatives of the Institute of the Health Care Insurance resulted that the criteria expressed under paragraph 1 of its Decision No. 50, dated 12.12.2008, aimed at the reinforcement of fair competition in the market.

2. In the meaning of Articles 69 and 70 of Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition”, the Decision No. 50, dated 12.12.2008, adopted by the Institute of the Health Care Insurance, brings quantitative restrictions for market entries and the trading of reimbursable medicines.

3. Such quantitative restriction at the amount of 1.500.000 Lek per month, plus 2%, as foreseen under paragraph 12 of this contract, caused a limitation of the specific obligations (paragraph 5) in the pharmacies’ contracts, because, in the cases when the determined limit is fulfilled, the pharmacy will decline to offer further services to the clients, thus limiting the choices of the consumers.

4. The Administrative Council of the Institute of the Health Care Insurance, should require the opinion of the Authority for any draft-normative acts that can bring consequences for competition in the market, in the meaning of Articles 69 and 70 of Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition” and the Guideline “On the assessment of the impact of legislation on competition”, adopted by decision No. 68, dated 24.12.2007 of the Competition Commission.

FOR THESE REASONS:

The Competition Commission, pursuant to Article 24, letter “f”, Article 69, paragraph 1, letter „a“ and Article 70 of Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition”.

DECIDED:

- 1- To recommend to the Administrative Council of the Institute of the Health Care Insurance the revision of paragraph 1 of its Decision No. 50, dated 12.12.2008, titled “On the approval of standard contract model between the Institute of the Health Care Insurance, the pharmacies, pharmaceutic agencies, importing warehouses, distributors of pharmaceutical products and the three-party contract between the Institute of the Health Care Insurance, the Tirana University Hospital Center and the Pharmaceutical Warehouses for the year 2009.”
- 2- The Secretary General is in charge to communicate such decision to the relevant institutions.
- 3- This decision enters into effect immediately.

THE COMPETITION COMMISSION

Lush Perpali

Servete Gruda

Rezana Konomi

Koço Broka

(_____)

(_____)

(_____)

(_____)

Deputy Chairman

Member

Member

Member

Lindita Milo (Lati)

CHAIRWOMAN