

IN RE: INDIAN CHEMICAL COUNCIL & GENERAL INSURANCE CORPORATION OF INDIA

Decision date: 26/07/2019

Keywords: abuse of dominant position

Issue: Whether GIC's issuance of the circular dated 12.02.2019 notifying amendments to the method of calculating premium, amounts to an abuse of its dominant position?

Rule: Sec. 4 of the Competition Act, 2002.

The main grievance of the Informant revolved around a circular issued by the GIC to all its ceding insurance companies with whom it has entered into reinsurance treaties, notifying certain amendments to the method of calculating premium that the ceding insurance companies need to comply with, within the fire insurance segment. It was submitted that on account of such change by GIC the insurance companies, in fire insurance segment, would charge premiums multiple times the existing premium.

The Commission sought the opinion of the IRDAI (the sectoral regulator), which opined that the circular is not in breach of relevant regulations and guidelines issued by it. Further, the Commission noted that the said circular states: *"Notwithstanding the above, nothing in this clause prevents the Reinsured to offer lower rates than the above to the primary insured, however in all such cases, the risk cannot be ceded to this treaty"*.

On this basis, the Commission held that the said circular cannot be said to be anti-competitive, merely because it leads to enhancement in premium. Further, it noted that it *"may not be appropriate for it to delve into aspects relating to quantification of premium and deciding whether any enhancement thereof is unjustifiable since a pure pricing decision cannot be said to give rise to any competition concern unless it is a manifestation of abuse of dominant position."* The Commission also noted that the said circular, neither prevents a general insurance company/ insurer to offer premium at lower rates to a primary insured/ policy holder nor does it prevent general insurance company from opting for an alternate reinsurance company, other than GIC. Thus, it held that there exists no *prima facie* case.