Portugal

MARKET INVESTIGATION

Hemodialysis care sector—significant entry barriers—specific recommendations

Barriers to entry; Blood; Medical treatment; National competition authorities; Portugal; Sector inquiries

You shall not pass: the Portuguese Competition Authority ("PCA") identifies entry barriers in the hemodialysis care sector and issues recommendations

Following an analysis of the hemodialysis care sector in Portugal, the PCA found significant barriers to the opening of new facilities.

Some of the barriers identified are the following: (i) legal uncertainty in the National Health System private contracting framework; (ii) multiplication of long-lasting licensing procedures; and (iii) fragmentated regulatory rules.

On top of that, the PCA pointed out a high level of concentration in this sector. Private clinics NephroCare, Diaverum, DaVita and B. Braun operate 81% of the facilities and treat 88% of the patients. Such high concentration can further reduce the incentives to compete in terms of both quality and proximity.

In order to eliminate entry barriers and ultimately improve the welfare of patients, the PCA addressed a set of seven recommendations to the Portuguese Government, amongst which are: (i) prompt publication of the standard clauses for hemodialysis sector; (ii) establishment of a one-stop portal for both licensing and convention procedures; (iii) introduction of a comparative system with indicators of the quality of facilities; and (iv) embedding the principle of technology neutrality in the best practice guidelines for hemodialysis.

Cláudia Coutinho da Costa
Vieira de Almeida

Pedro Gil Marques
Vieira de Almeida

Portugal

ANTI-COMPETITIVE PRACTICES

Investigation—telecommunications sector—cartel—territorial restrictions and price fixing—fine—leniency

Cartels; Fines; Leniency programmes; Market sharing; Mobile telephony; Portugal; Price fixing

Portuguese competition watchdog sanctions MEO for an alleged cartel with NOWO

On 3 December 2020, the Portuguese Competition Authority ("PCA") announced it had imposed a €84 million fine on MEO, a telecommunications operator, for allegedly entering into a cartel for market sharing and price fixing of mobile services with NOWO.

According to publicly available information, the companies agreed that NOWO would not make mobile services available outside its footprint—i.e., the geographic areas covered by its fixed communications network. Furthermore, the competition watchdog took the view that NOWO agreed with MEO not to provide mobile offers up to five euros and to increase prices and reduce the quality of bundled offers of fixed and mobile telecommunication services.

According to the PCA, the alleged cartel was in force for 11 months, from the beginning of January until the end of November 2018. The competition watchdog had previously argued, in the Statement of Objections ("SO"), that the cartel had been in force between 2017 and 2018, having thus reduced the duration of the alleged practice.

Because the procedure was opened by the PCA in November 2018, following NOWO's leniency application, NOWO benefited from a fine exemption. This decision is subject to appeal to the Competition, Regulation and Supervision Court. MEO has already publicly expressed its intention to do so.

Cláudia Coutinho da Costa
Vieira de Almeida

Pedro Gil Marques
Vieira de Almeida