12th February 2009: Complementary health insurance

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The Conseil de la concurrence fines the National Board of the French Dental Surgeons Association (Conseil national de l'Ordre des chirurgiens-dentistes) and several of its regional boards for encouraging dental surgeons to rule out a partnership with the company Santéclair

> Version française

Following a complaint by Santéclair, the Conseil has today issued a decision fining the National Board of the Order of Dental Surgeons and the regional boards in the Bas-Rhin, Pyrénées-Orientales, Saône-et-Loire, Var and Vaucluse départements a total of 78,000 euros, for encouraging dental surgeons to boycott a partnership with Santéclair between 2002 and 2008.

Santéclair is a company that provides specialist complementary health cover services for insurance companies and mutual insurance societies. Ownership of the company is split principally between AGF on the one hand, and Maaf santé and MMA on the other.

In the case of dental treatment, its business mainly involves building a network of partner dental surgeons, who commit to a number of measures aimed at keeping down treatment costs and developing patient services (for example, promoting access to the "tiers-payant" or "third party payment" system where insurance companies settle treatment and pharmacy costs directly).

The National Board of the French Dental Surgeons Association, relayed by a number of regional boards, encouraged dental surgeons to abandon their partnership with Santéclair, leading them to understand that they may incur penalties in the event of disciplinary proceedings

Initially, the National Board issued a favourable opinion concerning the partnership proposed by Santéclair, which it deemed to be in line with deontological rules. Subsequently, following incidents, it withdrew its favourable opinion and, supported by several regional boards, encouraged dental surgeons to abandon their partnership with Santéclair, leading them to understand that they if they remained with the company, they may incur penalties in the event of disciplinary proceedings.

The Conseil de la concurrence took the view that the National Board of the Order of Dental Surgeons and the regional boards had given dental surgeons inaccurate information on the scope of the negative opinion ultimately reached by the Order, since deontological opinions of this kind are not legally binding and do not bind disciplinary bodies called upon to rule on such matters.

The call to boycott Santéclair also harmed the interests of patients, by hindering the emergence of new services for those with complementary health insurance

By pressuring dental surgeons to leave or refrain from joining the Santéclair network - without restricting itself to giving them its opinion or, on the contrary, taking nominative disciplinary action if it deemed necessary - the National Board of the Order of Dental Surgeons and the regional boards concerned committed a practice similar to a boycott, with the aim of forcing Santéclair out of the market.

The case elements show that the messages issued by the National Board did indeed lead significant numbers of dental surgeons to abandon the Santéclair agreement. The boycott also harmed the interests of patients, by hindering the emergence of new services for those with complementary health insurance, such as the possibility of access to healthcare professionals offering lower rates.

> For more details of this case, see the full text of Decision 09-D-07



> See decision of the Paris court of appeal (19th January 2010)

> The ruling was appealed to the Cour de cassation (Supreme Court of appeals)