



Competition Commission Appeal Tribunals

NOTICE OF APPLICATION UNDER SECTION 47 OF THE COMPETITION ACT 1998 CASES NO. 1002/2/1/01(IR) and 1003/2/1/01

Pursuant to Rule 13 of the Competition Commission Appeal Tribunal Rules 2000 ("the Tribunal Rules"), the Registrar of Appeal Tribunals gives notice of the receipt of an application under section 47 of the Competition Act 1998 ("the Act") by the Institute of Independent Insurance Brokers of Higham Business Centre, Midland Road, Higham Ferrers, Northants, NN10 8DW ("the applicant") in respect of a decision of the Director General of Fair Trading ("the Director") dated 11 May 2001 ("the Contested Decision") relating to a finding by the Director that the applicant had not shown sufficient reason why he should vary or withdraw Decision No. CA 98/1/2001, dated 24 January 2001 ("the Relevant Decision"), which decided that the rules of the General Insurance Standards Council ("GISC") do not infringe section 2 of the Act.

GISC notified its rules dated June 2000 (and later amended on 15 June and 24 October 2000) ("the GISC Rules") to the Director on 30 June 2000 for a decision under section 14 of the Act that the GISC Rules did not infringe the Act, or that, in the alternative, the Director grant the GISC Rules an individual exemption under section 4 of the Act. The applicant submitted its application to the Director to vary or withdraw the Relevant Decision within one month of its publication, in accordance with Rule 28(1)(a) of the Director's Rules and section 47 of the Act. Both the Contested Decision and the Relevant Decision are available on the website of the Office of Fair Trading (www.of.gov.uk) and the GISC Rules are available on the GISC website (www.gisc.co.uk).

By an application lodged on 11 June 2001 the applicant seeks the following relief:

1. That the Contested Decision be set aside;
2. That the Relevant Decision be withdrawn in so far as it concludes that rule F42 of the GISC Rules does not prevent, restrict or distort competition;
3. That the Tribunal itself rule on the eligibility of the GISC Rules for an individual exemption and the conditions to be attached to any such exemption, alternatively remit that issue to the Director with such directions and/or indications as the Tribunal may think fit; and
4. That the Tribunal award the applicant its costs.

The principal grounds on which the applicant relies are that:

1. The Director has committed errors of law by (i) misapplying section 2 of the Act in concluding that rule F42 of the GISC Rules has no appreciable effect on competition within the United Kingdom and (ii) failing to give adequate reasons to permit proper judicial review of his decision; and
2. The Director has made serious factual errors in concluding (i) that it was unnecessary and inappropriate to undertake any comparative analysis of the GISC Rules with those of any other body including the applicant and (ii) that insurance intermediaries could easily belong to both GISC and to the applicant.

By a separate application, also lodged on 11 June 2001, the applicant submitted a request for interim relief, pursuant to rule 32 of the Tribunal Rules, that the Tribunal suspend the Relevant Decision in so far as it finds that rule F42 of the GISC Rules does not appreciably affect competition and to direct GISC, pending the determination of the main application:

- Not to bring into force proposed rule F42 of the GISC Rules or any equivalent measure;
- To instruct its members not to refuse to deal with the applicant's members (i) who are not GISC members or (ii) who have not applied to become GISC members;
- To instruct those members, who have stated in communications to insurance broking practices that they will in future only trade with GISC members, to inform all recipients of such communications without delay in writing that such communications and the stated requirements therein are withdrawn forthwith;

- For such further or other relief as the Tribunal may consider just and appropriate in the circumstances; and
- That the Tribunal award the applicant its costs in respect of this request.

These proceedings are likely to be determined expeditiously and therefore any person who considers that he has sufficient interest in their outcome may make a request for permission to intervene in summary form within 14 days of the date of publication of this notice (By an order dated 12 June, the President of the Competition Commission Appeal Tribunals has abridged the one month period mentioned in rule 14(2) to a period of 14 days).

A request for permission to intervene should be sent to the Registrar, The Competition Commission Appeal Tribunals, New Court, 48 Carey Street, London WC2A 2JT, so that it is received within 14 days of the date of publication of this notice.

Further details concerning the procedures of the Competition Commission Appeal Tribunals can be found on its website at www.competition-commission.org.uk. Alternatively the Tribunal Registry can be contacted by post at the above address or by telephone (020 7271 0395) or fax (020 7271 0281). Please quote the case numbers mentioned above in all communications.

C. Dhanowa, Registrar

12 June 2001