

WRITTEN QUESTION E-1349/07
by Renato Brunetta (PPE-DE)
to the Council

Subject: Sole agents

By means of Law Decree No 223/2006 (which has become Law No 248/2006) the Italian Government has prohibited insurance companies from drawing up sole-agent contracts in the third-party motor insurance sector (Article 8). This ban has since been extended to all 'damage' sectors by means of Law Decree No 7/2007, which is currently being considered by Parliament for conversion into law (Article 5). Unless the relevant EU authorities intervene, such conversion will take place over the next few weeks (though not after 2 April). According to the Italian Government, such measures should encourage competition and hence benefit consumers.

In actual fact, such legislation would appear to infringe Community law and, indeed, nothing similar exists in any other European country.

As regards competition law, Article 3 of Regulation (EC) No 1/2003¹ states that under national law, agreements which may affect trade between Member States may not be deemed illegal if they are not prohibited under Article 81(1) of the Treaty, if they satisfy the conditions laid down in Article 81(3) or if they are governed by an exempting regulation.

Under Community law, Article 81(1) has never been applied to 'proper' agency agreements in which the agent is merely a 'long hand' of the company, with which he forms an indivisible unit (Commission Communication of 13 October 2000 - Guidelines on vertical restrictions). In any event, vertical agreements are covered by Exempting Regulation No 2790/1999², whilst Directive 653/1986³ on commercial agents in general and Directive No 92/2002⁴ concerning insurance mediation in particular apply specifically to sole agents.

In financial terms as well the Italian Government's decision seems illogical and contradictory: as the Commission states in its recent Interim Report ('Inquiry into the European business insurance sector', January 2007), distributors who are paid by more than one insurance company (as multiple agents undoubtedly are) tend not to sell products which are best suited to their clients' needs but, rather, those from which they personally will derive most benefit. This obviously leads to an increase in distribution costs at consumers' expense.

In view of the above, will the Council answer the following questions?

- In the light of Community law, what view does the Council take of this decision on the part of Italy's lawmakers?
- If Community law were found to have been infringed, what action would the Council take?

¹ OJ L 1, 4.1.2003, p. 1

² OJ L 336, 29.12.1999, p. 21

³ OJ L 382, 31.12.1986, p. 17

⁴ OJ L 9, 15.1.2003, p. 3