



MEDIA ANNOUNCEMENT

16th September 2021

Competition Authority finds MSG has breached competition law

Following an investigation, the GCRA has found that the Medical Specialist Group LLP (MSG) has infringed Guernsey Competition Lawⁱ by entering into agreements with its consultants that prevent lawful competition in Guernsey.

MSG entered into agreements with its consultants that contained non-compete (Restraint of Trade) clauses. Restraint of Trade clauses prevent business leavers from using confidential information or exploiting client contacts in a way that would undermine their previous firm. These clauses are common in commercial agreements and can be relied on provided they do not go further than what is strictly necessary. Under Guernsey competition law, such restraints cannot limit choice for consumers to the extent that they prevent a business from operating and competing without strong supporting reasons.

The GCRA found that MSG's Restraint of Trade clauses went beyond what was strictly necessary and therefore had the object of preventing competition. The clauses stopped consultants providing medical services in Guernsey for prolonged periods of time after they left MSG and MSG was not able to demonstrate that it could not operate without the restrictions. This meant that they were prohibited under Guernsey Competition Law.

Restraint of Trade clauses that go beyond what can be justified can harm competition by stopping leavers from offering consumers competing goods or services. In this case, the Restraint of Trade clauses meant that departing consultants could not offer alternatives to MSG for those seeking medical treatment in Guernsey for an unjustified long period of time set by these clauses. The restrictions therefore threatened to deprive Guernsey consumers of medical services that could benefit them through quicker access to medical treatment, less expensive alternatives, greater convenience, and other innovations that competition can bring. It is the GCRA's expectation that this decision will enable wider accessibility of medical services in Guernsey, potentially less expensive treatment and contribute to reducing the time people need to wait for treatment.

MSG has been directed to remove the Restraint of Trade clauses from its existing consultant agreements. It has also been directed to inform previous consultants that the Restraint of Trade clauses are void and unenforceable, which will allow those consultants to offer services in Guernsey if they wish to do so. The GCRA will now consider whether it would be appropriate to issue a draft penalty statement to MSG for breaching the competition law.

Ends

ⁱ The Competition (Guernsey) Ordinance, 2012