



CASE C1441G –THE MEDICAL SPECIALIST GROUP

STATEMENT ON PENALTY

On 16 September 2021, following an investigation conducted under section 22(1) of the Competition (Guernsey) Ordinance, 2012 (**2012 Ordinance**), the Guernsey Competition and Regulatory Authority (**GCRA**; the **Authority**) found that the Medical Specialist Group LLP (**MSG**) had entered into agreements with its consultants, which prevented those consultants from supplying medical services to Guernsey consumers for a period of time after leaving MSG. The GCRA found that these restrictions (**Non-Compete Clauses**) infringe section 5(1) of the 2012 Ordinance, which prohibits agreements between undertakings which have the object or effect of preventing competition within any market in Guernsey for goods or services.

Applying the factors set out in section 34 of the 2012 Ordinance and following the approach in its [Guideline on Financial Penalties](#), the Authority has now imposed a financial penalty of just over £1.5 million on MSG for entering into these Non-Compete Clauses.

The basic penalty is calculated as a percentage of turnover and then multiplied by the number of years for which the infringement lasted, up to a maximum of 3. The percentage of turnover used in this case was 10%, which is at the bottom end of the range for object based infringements of competition. As the infringement had lasted just over 8 years, the multiplier was 3.

The basic penalty amount may be adjusted if there are mitigating or aggravating factors. In this case, the GCRA found that there were no mitigating factors. However, in the context of a settlement of private litigation, MSG sought to have the consultant who brought the Non-Compete Restrictions to the attention of the GCRA withdraw his complaint. It also required, as a condition of settlement, that its advocates be copied to all future correspondence between the GCRA and the complainant. The GCRA considers that this conduct was aggravating as it had the potential to obstruct its investigation. It has therefore applied an increase of 10% to the basic penalty.

Finally, the GCRA conducted a “step-back” exercise to ensure that the overall penalty of £1,532,590 was reasonable and proportionate in all the circumstances. It concluded that this was the case.

The full penalty calculation is set out below:

Starting percentage	10%
Duration multiplier	3
Turnover figure	£4,644,212
Step 1 figure	£1,393,263.60
Aggravating factors	10%
Mitigating factors	0%
Specific deterrence	0%
Step 2 figure	£1,532,589.96
Legal maximum reduction	0%
Step 3 figure	£1,532,589.96
Final figure	£1,532,590 (rounded to nearest £)

16 December 2021