

DRAFT

Public Affairs Project
March 2016

Foreword

This paper contains the project for a public affairs activity to be undertaken *vis-à-vis* the Italian Government and Parliament to inform and educate the relevant decision-makers on the opportunity not to adopt measures that would unduly disrupt the provision of high-quality dental assistance in Italy.

Background

The Italian Parliament is currently in the process of examining a Government's Bill, aimed at removing barriers to competition in a wide range of products and services markets (hereafter referred to as "Competition Bill"). Introduced in Parliament by the Renzi Cabinet in early 2015, the Bill was passed at first reading by the Lower House and submitted to the Senate, where the relevant Committee (10th Committee – Industry, Trade and Tourism) is now in the process of examining and voting proposals for amendments to the Bill.

In autumn 2015, the Committee held a round of hearings prior to starting the actual examination of the Bill. The **national professional Association of dentists** (ANDI – Associazione Nazionale Dentisti Italiani) took that chance to raise the Committee's attention on what they described as the distorted competition posed by dental chains. ANDI submitted a proposed amendment to the Competition Bill, under which (among others) **it would be made mandatory for any dental care operator to place at least two thirds of both capital and voting rights in the hands of registered dentists.**

Senators from four different political groups (namely Democratic Party - PD, Alleanza Popolare – AP, Forza Italia and Movimento Cinque Stelle – M5S) tabled identical amendments reflecting ANDI's position and requests.

Scenario

Competition Bill

Since the relevant Bill has the (cross-sectoral) aim of removing barriers to competition, the Amendments affecting dental chains will be discussed and voted by the Industry Committee, not by the Health Committee. In principle, this circumstance may lower the chances for ANDI to have their Amendment passed, because MPs/Senators in the Industry Committee can be expected to be less sensitive to the "patients safety argument" (albeit extremely implausible), less inclined to accommodate with dental care professionals, and more knowledgeable on the financial impact of the proposed measure (potentially binding investors to sell their shares at a depressed price) than their colleagues in the Health Committees.

Similarly, the Ministry of Economic Development, which has actually drafted the original version of the Bill and takes part in the parliamentary procedure on behalf of the Government, has a more pro-market approach than the Ministry of Health.

Indeed, the original draft of this Bill has propelled a clash between the two Ministries, when the Minister of Economic Development sponsored the inclusion in the Bill of measures liberalising the retail distribution of non-reimbursable pharmaceutical products (including prescription

drugs) and the Minister of Health managed to block the proposed liberalisation: on that occasion as well, the Minister of Health acted in the interest of healthcare professionals (pharmacists in that case), justifying her stance by claiming she was safeguarding “patients’ safety”.

When the Amendments on dental care operators (like any other Amendment) are finally voted, **the behaviour of Senators in the Industry Committee will depend crucially on the opinion that will be formally expressed by the Rapporteurs and the Government’s representative** before the vote. While officially the Government will be represented by an Undersecretary of the Ministry of Economic Development, **the Government’s position will be defined before the Committee’s sitting and will come out of a (compromise?) agreement between the two Ministries concerned.**

In light of this scenario, it is **plausible** (albeit not at all certain) that the ANDI-sponsored amendment is not passed in its original version. As a matter of fact, this impression is confirmed by the fact that three out of the six identical amendments were either withdrawn or rephrased. It is worth noting, however, that the rephrased version tabled by two senators from the centrist AP group, PD’s junior ally, is in no way less harming for the sector compared to the ANDI-drafted original one. In fact, under this version:

- It would be still mandatory for any dental care operator to place at least two thirds of both capital and voting rights in the hands of registered dentists
- Dental care operators would have a 2-year transitional period to comply with the provision above.

This means, in concrete terms, that in their rephrased version **the senators clarified beyond any possible ambiguity that their proposed Amendment is intended to apply retroactively.**

On the other hand, two PD Senators suppressed any provision affecting the ownership structure of dental care operators in their rephrased version, while maintaining the obligation on all operators to have a registered dentist as Medical Director (or at least as a member of the medical staff, delegated by the Medical Director if the latter is not a registered dentist).

What we expect is that at some point in the next couple of weeks the Senate’s Committee converges on a **compromise text**. The latter may come out as:

- a) A **proposal by the Rapporteurs**, who would accordingly ask their colleagues to withdraw their own Amendments. *When a proposal is put forward by the Rapporteurs, it has typically already been green-lighted by the Government*
or
- b) A **proposal by one or more members of the Committee**, on which the Rapporteurs and the Government accept to give a positive opinion. *This may be one of the two rephrased versions mentioned above, or even a proposed rephrased version of any compromised amendment tabled by the Rapporteurs.*

Beyond the Competition Bill: looking ahead

Given the considerable investment in time and visibility that ANDI has made in advancing and advocating for their proposal, it seems highly likely that they will not give up if they fail to have their sponsored Amendment included in the s.c. Competition Bill.

For the reasons discussed above, they would probably have more chances of being successful by proposing to have the same Amendment (with or even without minor changes) included in a piece of legislation which is set to be discussed by the **Health Committees** of both the Houses of the Parliament, with the **Ministry of Health** as the only Government branch in charge (instead of the Ministry of Economic Development).

This may be, for example, the Government's Bill on clinical research and healthcare professions, which has been pending for a long time in the Senate's Health Committee; the procedure has recently been revived, therefore the Government is now willing to have it passed in a reasonable timeframe.

Procedure

The procedure chosen by the President of the Committee and the Rapporteurs, consists in postponing the examination of those Amendments which in their view deserve a proper debate, while voting right away all the Amendments on which the Rapporteurs and the Government have an uncontroversial (typically negative) opinion to express.

The consideration of the six Amendments affecting the dental care sector was **postponed** during the first round of votes: in light of this, it is reasonable to assume that **the Rapporteurs intend to put the Amendments** (and the rephrased versions tabled in the meantime) **up for discussion with a view to converging on a compromise text** (*on which see above*).

On 15 March, upon the proposal of the Rapporteurs, the Committee decided to postpone once again the examination of the Amendments in question: this appears to confirm that no compromise solution has been found as yet.

It is another fair assumption that the discussion and vote on the Amendments will take place **in the next two weeks (before the Easter break)**. The Committee is scheduled to go on examining the Bill on Tuesday 15 March, Wednesday 16 March and Thursday 17 March, while its schedule for next week has not been agreed yet.

After the approval by the Industry Committee, the Bill will be considered by the Senate's Plenary, where the chances to have Amendments adopted are considerably lower.

Please note however, that since the Bill has already been amended by the Senate's Industry Committee, **it will need to be considered by the Lower House once again**, because the two Houses have to agree on an identical text before the Bill can enter into force. This means that, should any Amendment on the dental care sector be passed, it would then be transmitted, discussed and (possibly) amended once again by the Lower House.

Public Affairs activity: goal, messages and proposed strategic approach

Goal

The goal of the public affairs activity is to:

- a) inform and educate the relevant decision-makers, namely the national Government and Parliament, on the flaws of, and the serious consequences potentially stemming from the approach reflected by the proposed Amendments
- b) provide the relevant decision-makers with sound alternative options, possibly in the form of sub-amendments

- c) keep a dialogue alive with all relevant decision-makers so as to counter any further attempt by ANDI at having anti-competitive measures passed in other pieces of legislation.

Sample Messages

It is paramount that the relevant decision-makers are made aware that the proposed measures have serious flaws, e.g.:

- From the point of view of the provision of healthcare, their expected consequence is to disrupt dental care operators that:
 - Provide patients with high-quality, low-cost dental assistance at a time when out-of-pocket healthcare expenditure has reached its historical high in Italy
 - Create jobs for registered dentists who are not lucky enough to inherit their own practice
- From the point of view of their impact on the market, they would force investors to sell their shares within a short timeframe, thus inflicting unreasonable, severe losses while keeping investors in the dental care sector would help improving the quality of dental assistance
- From the more general point of view of the attractiveness of Italy for foreign investors, a retroactive measure as the one under discussion would once again show an erratic behaviour which would no doubt discourage investors beyond the sector concerned
- *Other.*

Proposed strategic approach

Relevant decision-makers could be engaged with either by an individual investor (if building a coalition proves unfeasible) or by a coalition of investors/dental care operators.

Acting as a coalition would allow operators to convey their messages in formal parliamentary hearings, which are typically not open to individual market operators.

Outline of the activities

Phase 1 – Examination of the Competition Bill by the Senate

The Public Affairs activity will include:

- One-to-one meetings with selected Senators in the Industry Committee, including:
 - Representatives of the main political groups from both the majority and the opposition
 - The President of the Committee and the Rapporteurs if at all possible (given the very short timeframe before the vote)
- One-to-one meetings with key decision-makers in the Cabinet:
 - Ministry of Economic Development
 - Prime Minister's Office
- Ministry of Health
 - Sending *via email* a letter and a tailored made position paper

Phase 2 – Examination of the Competition Bill by the Lower House (2nd reading)

The Public Affairs activity will include:

- One-to-one meetings with selected MPs in the Productive Activity Committee, including:

- Representatives of the main political groups from both the majority and the opposition
- The President of the Committee and the Rapporteurs
- Constant update and alignment with key decision-makers in the Cabinet.

Phase 3 – Beyond the Competition Bill

The Public Affairs activity will aim at improving the positioning of dental chains vs. key decision-makers, particularly those in charge of healthcare policy.

This will include:

- One-to-One meetings with MPs/Senators in the Social Affairs/Health Committees (just to give an example, it will be paramount to convey key messages to the ones responsible for healthcare policy matters within their respective parties)
- *(whenever feasible)* Parliamentary Hearings
- Keeping the dialogue alive with the Ministry of Health
- Engaging in a proactive activity whenever a threat emerges from any parliamentary procedure/Government's legislative initiative.

The role of Telos

Upon agreement with the client, Telos will:

- Send the letters of request for a meeting with the relevant decision-makers
- Prepare the briefing documentation for engagement with the decision-makers, basing on the data and analysis provided by/agreed with the client
- Organise the contact programme: this includes arranging meeting schedule, supporting at the meetings where, among others, drafting minutes and advising on next steps
- Carry out any follow-up activity that may be appropriate
- Advise on any Amendment to be proposed by the client to MPs/Senators and the Government
- Provide the client with insights on the developments in the legislative process and in the position of relevant decision-makers.
- Monitoring any legislative initiative that may affect the dental care market.