



CASE 4257:
INVESTIGATION INTO THE PRACTICES OF BLUE CROSS OF JAMAICA

Staff Recommendation

to

the Commissioners

August 8, 2002

RECOMMENDATION: That the Commissioners consider for adoption the attached consent agreement with Blue Cross Jamaica (BCJ), to settle allegations that it has engaged in activities which could potentially result in (a) excessive charges to health care Providers for the use of an electronic claims processing system and (b) restrictions on how Providers may treat transaction fees associated with BCJ's electronic claims processing system – Provider Access System (PAS).

1. Introduction

- 1.1 Pursuant to the provisions of the Fair Competition Act, and by virtue of the authority vested in it by said Act, the Staff of the Fair Trading Commission (FTC), having received a complaint from representatives of the Association of General Practitioners and having reason to believe that the activities of Blue Cross of Jamaica (BCJ) complained about therein are likely to have anti-competitive effects, decided to launch a formal investigation into those activities on March 7, 2002.
- 1.2 The Informant alleged that BCJ, in collaboration with Advance Integrated Systems (AIS), has introduced and implemented an electronic claims processing system, referred to as PAS, to replace BCJ's manual claims system. It was alleged further that:-

- BCJ requires that Providers pay to AIS a transaction fee of 1.75% of each claim adjudicated through PAS;
- BCJ requires that all Providers sign on to PAS by June 2002; with the result that the existing manual claims processing system would have been phased out by June 2002;
- BCJ is not offering any alternative to PAS.

1.3 A preliminary inquiry confirmed the following:

- BCJ has required all Providers to acquire an electronic claims processing system which is compliant with PAS within twelve months of signing the Blue Cross of Jamaica Providers’ Agreement; and failure to do so may result in termination of Provider Status. This condition is stipulated in Clause 3 of the Blue Cross of Jamaica Providers Agreement.¹
- By virtue of the agreement between BCJ and AIS, providers would be required to pay a transaction fee of 1.75% of the adjudicated claim to AIS.
- Providers would not be allowed to pass on to their customers the transaction fee associated with PAS. This is indicated in Clause 7 (Sole Payment) of the Blue Cross of Jamaica Provider Agreement.²
- BCJ had required all Providers to sign on to PAS by June 2002; that is the existing manual claims processing system would have been phased out by June 2002.
- BCJ has not provided or offered an alternative to PAS.

1.4 In letter dated March 12, 2002 and received by the Staff on March 14, 2002, BCJ proposed that the matter be discussed, with a view to bringing it to a close. A meeting was held on May 7, 2002 between the Staff and representatives of BCJ, where the Staff indicated that subject to approval by the Commissioners, it would be willing to bring the matter to a close if BCJ agreed to certain conditions.

¹ Clause 3 of the Blue Cross of Jamaica Provider Agreement states, “All Providers who do not at the effective date of this contract possess the appropriate technology to access the PAS-EDI System, will be given twelve (12) months in which to become PAS-EDI Compliant. Failure to do so during this period may result in termination of Provider Status”.

² Clause 7 of the Blue Cross of Jamaica Provider Agreement states—

- (a) *The Provider shall not charge or collect any payment from a subscriber for any Health Care Services provided to such subscriber in excess of the co-insurance except and unless cost of such service is in excess of the benefit to which the subscriber is entitled.*
- (b) *Provider shall not charge the Subscriber any fees or surcharges for Covered Services rendered pursuant to this Agreement, except for Co-payments. If Blue Cross receives notice of any additional charges, Provider shall fully cooperate with Blue Cross in its investigations of such allegations, and shall promptly refund any such payment to the subscriber or to the party who made the payment deemed to be improper by Blue Cross. Persistent surcharges or additional fees will be grounds for dismissal from the Provider Panel.*

- 1.5 The Staff believes that the provisions of the attached proposed Consent Agreement are sufficient to address the competition concerns raised by the complaint. This report presents the background information on the matter.

2. The respondent

- 2.1 BCJ, an independent licensee of the Blue Cross and Blue Shield Association, is existing and doing business under and by virtue of the laws of Jamaica with its principal place of business located at 85 Hope Road, Kingston 6, Jamaica. BCJ is a health insurance company which supplies health insurance in Jamaica.

3. Jurisdiction

- 3.1 BCJ supplies a variety of group health insurance plans to companies throughout Jamaica. It maintains and has maintained a course of business, including the practices herein alleged, which are affecting “business” as defined in the Fair Competition Act.

4. Assessment of BCJ’s conduct

- 4.1 BCJ’s conduct relates to the following:
- The compulsory use of PAS by Providers—BCJ has not offered any alternative to PAS.
 - The restriction on alternatives to the software provided by AIS for on-line access of BCJ’s database. Access facilitates the receiving of prior authorization and eligibility information on BCJ’s health insurance holders.
 - The restriction on alternatives to the software provided by AIS for claims submission.

5. Potential impact of BCJ’s conduct on competition

- 5.1 The Staff believes that BCJ’s conduct is likely to have the following impact on competition:
- The mandatory use of PAS may result in significant cost to Providers. This cost relates to the necessary acquisition of computer, printer and software and the recurrent payment of a transaction fee.
 - Competition in the market for the development of alternative system will be inhibited. In the absence of competition in this market there will be no constraint on BCJ’s behaviour with respect to the cost associated with PAS.
 - The exclusion, from the BCJ-Provider list, of Providers who are not able to install PAS is likely to result in a reduction of the customer base for such

Providers and significantly affect their ability to compete and expand in the market for the provision of health services. Customers/subscribers of BCJ (i.e. purchasers of the health insurance from BCJ) form a significant part of the revenue base of health providers.

6. Request for termination of investigation

6.1 After the Staff advised BCJ that a formal investigation would be launched, BCJ informed the Staff of the following and requested that the investigation be terminated in light thereof:

- The owner and supplier of the system [PAS] is AIS and not BCJ and therefore BCJ has no control over the fees charged for the processing of transactions. BCJ simply contracted AIS to develop the system.
- BCJ and the Providers have been in discussions, with a view to finding alternative systems. Some proposals have been made by the Providers.
- PAS is but one system, the use of which is not compulsory for any Provider.

7. Summary of terms and conditions of proposed Consent Agreement

7.1 The following relates to terms and conditions agreed to by BCJ after negotiations with the Staff:

- *Provision of alternative system*—BCJ will make available to Providers either an Internet based system or some other system for which Providers will not be required to pay a transaction fee.
- *Transition period*—BCJ will retain the existing manual system for an 18-month period after it has provided an alternative system to PAS and one which has no transaction fee attached.
- *Retaining the manual system*—BCJ will retain the manual system to facilitate Providers who do not have access to fixed-line telecommunications services or who have only a small number of BCJ claims (averaging fewer than 40 per month).
- *Third party developers*—BCJ will make available to any party who wishes to develop an alternative claims processing system which is compatible to BCJ's system, the relevant technical specifications.
- *Transaction fees*—BCJ will indicate clearly to Providers that they are free to treat the transaction fees associated with PAS in any way they choose, e.g. they may pass those costs on to their patients/customers.

8. Conclusion

8.1 The Staff believes that the terms and conditions of the proposed Consent Agreement are sufficient to ensure that the conduct of BCJ during its change over to an electronic claims processing system will not result in excessive costs to

Providers. The agreement also removes restrictions regarding the treatment of transaction fees. The Staff believes that the agreement will provide choices for Providers and allow for competition among software vendors who may wish to create and supply other claims processing systems.

- 8.2 The Staff therefore recommends that the Commission approve the terms and conditions of the proposed Consent Agreement.