



बीमा विनियामक और विकास प्राधिकरण
**INSURANCE REGULATORY AND
DEVELOPMENT AUTHORITY**

ORDER

OF THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY

AGAINST

THE NATIONAL INSURANCE COMPANY LIMITED

1. The present order stands directed against The National Insurance Company Limited having its registered office at 3, Middleton Street, Kolkatta 700 071 (hereinafter referred to as National) on account of their alleged default in complying with the instructions issued by the Insurance and Regulatory Development Authority (hereinafter referred to as the Authority).

2. The undisputed facts related to this case are as follows:-

M/s Indian Oil Corporation Limited (IOL) had invited bids by floating a tender for the renewal of the Mega Risk Policy for their Refineries Division vide their tender No.RD/F/460 dated July 30, 2007. Many insurance companies submitted their bids in response to the same. National too had submitted a price-bid to IOL.

3. Arising out of reports of failure on the part some of the companies to adhere to the guidelines/instructions issued by the Authority while submitting the bids, the Authority called for the related information from the insurance companies.

4. Upon perusal of the information so submitted, it was inter-alia noted that a few insurers including National had deviated from the instructions issued by the Authority at various points of time and in particular had



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failed to adhere to the File and Use Guidelines issued by this Authority vide circular nos. IRDA/20/F&U/07-08 dated 25 June, 2007 and IRDA/30/F&U/07-08 dated 13 August, 2007.

5. In view thereof, a notice dated November 08, 2007 was issued to National, in terms of which National was advised to show cause as to why appropriate action should not be initiated against them for the violations specified therein and to make their written submissions within the stipulated period of fifteen days. National offered their submissions under cover of their reply dated November 28, 2007, in which they inter-alia denied the charges leveled against them and justified their actions as being part of market practice.

APPRECIATION OF FACTS:

6. I have examined the submissions urged on behalf of National, the documentary material on record as well as the facts and circumstances of the case. The essence of the submissions of National is that there is no willful disregard by them of any of the instructions issued by the Authority and that if at all, they may have interpreted the instructions of the Authority differently. To determine the veracity of the same, it would be relevant to refer to the relevant portion of the said circulars alleged to have been violated.
7. Failure to adhere to the file and use guidelines issued by the Authority. The relevant portion of the said circulars alleged to have been violated is as follows:-

Circular No IRDA/20/F&U/07-08 dated 25 June, 2007:



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Para (x)(b) :- Any client who wants the benefit of international terms for his insurance requirements qualifying as a large risk should be willing to accept the rates, terms and conditions as received from the leaders in the international market without requiring the Indian insurer to provide wider cover than obtained from the international market. Where terms are developed from the international market on 'net rates' basis, the rates quoted to the Indian client should be loaded to include the direct insurance commission or brokerage and reinsurance brokerage payable and a reasonable profit margin.

Circular No IRDA/30/F&U/07-08 dated 13 August, 2007

Para 10:- The condition that where a risk is rated on terms developed from international markets, the terms offered to the client must not be different from those secured from the international market, will not be relaxed.

7. Thus the circulars reproduced above mandate that the terms quoted to the client on large risks should not vary from the terms developed from the re-insurers. This mandate was also clearly spelt by the Authority at the meeting held on August, 6, 2007 with the CEO's of various General Insurers.
8. In the instant case, I have examined the information submitted by National especially the details of the risk cover offered by them which is as under:
 - i. Sum Insured: Rs.62,231 crores
 - ii Loss Limit: Rs.3500 crores
 - iii. Deductible
 - A. Property damage – Rs.2.5 crores
 - B. Loss of Profit – 30 days

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- iv. Renewal Date – 01.10.2007
- v. Reinsurance premium quoted by the re-insurer of National: Rs. 50 crores net premium with no reinsurance commission.
- vi. Price quoted by National to the client: Rs. 46.47 crs
9. The figures given above have not been disputed by National. Admittedly, contrary to the instructions of the Authority and in clear violation of the above mentioned circulars, National had offered their client a further discount in premium by rebating the reinsurance commission received on their reinsurance cessions to their treaties.
10. This is clearly prohibited by the aforesaid circulars.
11. However National have justified their actions by stating that rates are independent of the terms and conditions of the said policy.
12. Undisputedly National have totally misinterpreted the said circulars and have instead feigned ignorance of the true meaning of the content as also the spirit of the said circulars. In a mega risk policy, rates cannot be independent of the terms and conditions of the policy in as much as the same are an integral part of the terms of the Policy. In any case, they should have gone back to the GIC Re before quoting a different premium than the premium quoted by GIC Re.
13. Clearly National has acted in an unprofessional manner and in breach of good faith in relation to their non-reporting obligatory reinsurance treaties by improperly reducing the premium that should have been ceded to the treaties to the extent of reinsurance ceded commission. The ethics of operating re-insurance treaties that are automatic and non-reporting



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have been ignored. At stake here is also the mandate issued by the Regulator and its oft expressed desire to maintain proper standards in underwriting in the insurance sector which has to be respected. It is clear that if such instructions are violated, occurrence of loss is inevitable as the interest of the orderly growth of the insurance and re-insurance business is jeopardized. Hence sufficient cognizance has to be taken of such disregard and suitable liability should be fixed there upon or else, the entire purpose of enactment of the statute would become redundant.

14. In view of the above, on a judicious exercise of the discretion conferred upon me, bearing in mind the fact that National is a registered entity and on account of the same ought to have exercised greater professional care, skill and diligence which they failed to do, I, in exercise of the powers conferred upon me under Section 14(1) of the Insurance Regulatory and Development Authority Act, 1999 read with Section 102 of Insurance Act, 1938, am of the considered view that a penalty of Rs. 2,00,000/- (Rupees two lakhs only) be imposed upon National Insurance Company Limited.
15. The penalty amount shall be paid within a period of ten days from the date of receipt of this order through a cross demand draft drawn in favour of Insurance Regulatory and Development Authority and payable at Hyderabad which may be sent to Shri Prabodh Chander, Executive Director at the Insurance Regulatory and Development Authority, 3rd Floor, Parisrama Bhavan, Basheer Bagh, Hyderabad 500 004.

PLACE: HYDERABAD

DATE: 25.1.08

C S Rao
25.1.08

C.S. RAO

CHAIRMAN