II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 23 November 1984

relating to a proceeding under Article 85 of the EEC Treaty

(IV/28.775 — UNIDI)

(Only the Italian text is authentic)

(84/588/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17, First Regulation implementing Articles 85 and 86 of the Treaty (1), as last amended by the Act of Accession of Greece, and in particular Articles 6 and 8 thereof,

Having regard to Commission Decision 75/498/EEC (2) granting an exemption under Article 85 (3) of the Treaty until 31 December 1983 for the decision by the Unione Nazionale Industrie Dentarie Italiane (UNIDI) setting out the rules governing Expo Dental (dental equipment) exhibitions,

Having regard to the application made by UNIDI on 28 November 1983 for a renewal of the Decision,

Having published a summary of the Expo Dental ruls (3), in accordance with Article 19 (3) of Regulation No 17,

Having consulted the Advisory Committee on Restrictive Practices and Dominant Positions,

(1) OJ No 13, 21. 2. 1962, p. 204/62.
(2) OJ No L 228, 29. 8. 1975, p. 17.
(3) OJ No C 130, 17. 5. 1984, p. 3.

Whereas :

I

(1) UNIDI is a private association of dental equipment manufacturers founded in Milan on 27 May 1969. Its objects include the advertising, both in Italy and elsewhere, of the products of member firms and the promotion of their sales through approaches to public or other official bodies and by means of national and international fairs and exhibitions held under the name of 'Expo Dental'. On 21 December 1973 the association sought negative clearance or exemption under Article 85 (3) for its decision laying down rules for Expo Dental exhibitions. The Commission granted an exemption on 17 July 1975. The association has now applied for a renewal of the exemption.

(2) Membership of the association is open to any firm manufacturing products for use in dentistry which is registered with an Italian Chamber of Commerce, Industry, Crafts and Agriculture. Virtually all (98 %) Italian dental equipment manufacturers are members, and the association currently numbers 120 firms.

(3) An association of dental equipment dealers (ANCAD — Associazione nazionale commercianti articoli dentari) is regularly invited to assist

UNIDI in organizing Expo Dental exhibitions. However, UNIDI alone is responsible for the organization and it determines the general policy to be followed.

(4) The only changes that have occurred in the Expo Dental rules since Decision 75/498/EEC are as follows :

(a) Since 1983 Expo Dental exhibitions have been held every year instead of once every 18 months and the period prior to Expo Dental exhibitions during which exhibitors are banned from participating directly or indirectly in other exhibitions has been reduced accordingly from nine to six months.

(b) Exhibitors refused admission to or expelled from an Expo Dental exhibition now have a right of appeal within eight days to an arbitration panel.

For the other main provisions of the Expo Dental rules, reference is made to Decision 75/498/EEC.

(5) Since that Decision, Expo Dental exhibitions have been held in Bologna in 1976, Genoa in 1977, Milan in 1979, Genoa in 1980, Milan in 1982, Bari in 1983 and Turin in 1984.

(6) During this period there were a number of cases of exhibitors being barred from Expo Dental exhibitions for breaches of the rules. To ensure that the rules are applied objectively in such cases, UNIDI has now introduced, at the Commission's request, the appeal procedure referred to in 4 (b) above.

(7) The Decision of 17 July 1975 reported certain trends in the forms of promotional activity used for dental equipment. These trends have continued :

— a decline in attendance at general exhibitions in favour of 'open houses' (1), congresses and specialized exhibitions,

— use of traditional sales methods such as sending of sales literature and calls by sales representatives,

— the organization in Italy by dental associations of other Member States of congresses linked with exhibitions,

— the predominance of Expo Dental, which is the only exhibition in Italy representing the entire dental equipment industry and is attended by 60 to 70 % of its potential customers, that is, dentists and dental technicians.

(8) Following publication of the notice pursuant to Article 19 (3) of Regulation No 17, the Commission received no comments from third parties which might alter its assessment of the Expo Dental rules.

II

(9) For the same reasons as were given in Decision 75/498/EEC the following provisions of the rules for Expo Dental exhibitions, which constitute a decision of an association of undertakings, fall within the scope of Article 85 (1) of the Treaty :

— the prohibition on exhibitors participating, either directly, or indirectly through representatives or advertising, in other similar dental exhibitions in Italy during the six months prior to an Expo Dental exhibition,

— the right to refuse exhibitors who are in breach of the rule referred to in the previous paragraph admission to, or expel them from, the current Expo Dental exhibition or to bar them from the next Expo Dental exhibition.

III

(10) The amendments which UNIDI has made to its rules for Expo Dental exhibitions (paragraph 4 (b)) make the application of the rules more objective. In these circumstances, Decision 75/498/EEC can be renewed under Article 8 (2) of Regulation No 17 since the requirements of Article 85 (3) continue to be satisfied, for the same reasons as were given in the original Decision. The Expo Dental rules cause dental equipment suppliers to concentrate their exhibition activity on this particular event, where virtually all the dental products available on the Italian market at any one time are on show. Besides being more economical, this also stimulates competition between the suppliers and encourages technical progress. It is also more convenient for users since they can gain a full picture of what the Italian market has to offer and enter

(1) Local exhibitions held on the premises of a manufacturer, or a representative or dealer, or in a hotel, where customers may inspect the range of products manufactured by a particular firm.

into direct contact with all the manufacturers and their distributors represented on that market without having to travel to many different exhibitions. The Expo Dental rules do not impose restrictions which are not indispensable to attainment of the advantages of a concentration of dental exhibitions in Italy and do not eliminate competition between the undertaking concerned.

(11) Therefore, UNIDI's application for renewal of Decision 75/498/EEC may be granted and the Decision renewed for a period expiring on 31 December 1993.

(12) For the same reasons as were given in Decision 75/498/EEC, it is necessary to attach obligations to this Decision,

HAS ADOPTED THIS REGULATION :

Article 1

Decision 75/498/EEC is hereby renewed until 31 December 1993.

Article 2

UNIDI shall immediately inform the Commission of any refusal to admit an exhibitor to or expulsion of an exhibitor from any Expo Dental exhibition.

Article 3

The Decision is addressed to Unione Nazionale Industrie Dentarie Italiane (UNIDI), via Fratelli Ruffini 9, Milan, Italy.

Done at Brussels, 23 November 1984.

For the Commission

Frans ANDRIESSEN

Member of the Commission