

Health liberalisation in the Netherlands

Ladies and gentlemen,
dear guests and colleagues.

First of all, good morning. It is a great honour for me, in my capacity as acting chair of the board of the Dutch Healthcare Authority, to welcome you here in The Hague for a day long seminar on the mutual experiences of health authorities in the UK and The Netherlands.

Welcome of UK guests

It is of course a special pleasure to welcome our guests from the UK: the participants from the Cooperation and Competition Panel; the Department of Health; and Monitor. I believe there is a phrase in English that asks "What's in a name?". In this context I particularly like the meaning evoked by "cooperation" and "competition" panel: whenever I speak to healthcare providers I always find myself having to explain that we are not just in favour of competition, but also in favour of appropriate forms of cooperation! Presumably your name spares you such explanations in the UK.

Back to the reason for today's meeting.

It is early days in healthcare liberalisation in The Netherlands and – I suppose – in the UK as well, if not even more so. It may even be that you have not explicitly embraced liberalisation as an objective? For us, liberalisation has been an intermediate objective for some time, but every step in that direction is still a challenge. By intermediate objective I mean that we are in favour of market-based solutions where possible, and regulation only when necessary. But markets are a means, not an end, with consumer benefits as the ultimate goal.

I am sure our speakers will tell us more about this.

In any event it is not too early to try drawing the first lessons from each others' experiences. A network of healthcare regulators in all the EU Member States may or may not be created one day. But exchanging best practice always makes sense and even a glimpse at where others have failed provides food for thought. In any event, I hope your experience here today will be a useful and productive one.

Welcome VWS and Competition Authority

Dear colleagues from the Dutch Ministry of Health and the Dutch Competition Authority: thank you all for being here with us today and volunteering your contributions on relatively short notice. I believe it is crucial for our colleagues from the UK to get a view of the activities of all three of the relevant authorities – including both of the regulators responsible for enforcing competition rules in the healthcare sector.

Example

I want to share with you a thorny issue that we as Board of the Healthcare Authority had to deal with recently: deciding on whether or not to grant aid to a failing hospital in a peripheral region of The Netherlands.

This was the context: a significant number of our hospitals appear to be financially vulnerable, as are a number of long term care conglomerates. We are responsible for setting their budgets, or at least formally determining them. Hence, we are asked to raise these budgets temporarily by significant sums in order to help these organisations avoid bankruptcy. However, because they are also undertakings operating in a competitive environment this means that potentially incompatible and therefore prohibited state aid may be involved.

At the same time we are not keen to grant aid to failing undertakings at the expense of the healthcare insurers, of consumers, and of more efficient competitors. However it is clearly politically very difficult to close down failing hospitals while banks are being rescued for amounts of money that are dimensions larger than what is required here. Our conclusion was to grant the aid requested but under strict conditions and at the same time to start working on developing a new policy. This policy aims to be principle based and to the greatest extent feasible in line with EU law. What the relevant conditions would be might well be a question of common interest to today's participants.

However, instead of getting into specific detail on aid conditions let me just say a few words on the new Dutch healthcare system and the role of the Healthcare Authority in this context.

The new Dutch healthcare system

Since 2006 the healthcare system in The Netherlands has undergone a number of profound changes. These are designed to promote demand-based competitive provision of services to the benefit of the consumer within a framework of basic public interest guarantees.

Consumer choice is key to the new system, as its principal objective is to ensure access, quality and affordability by means of introducing demand-led competition and market-based incentives where possible – with public intervention where necessary. This is reflected in the free choice of healthcare insurance provider and of healthcare service provider that is protected by a set of consumer rights.

Serving the general consumer interest is also the primary statutory objective of the Healthcare Authority as an independent sector-specific regulator.

The role of the Healthcare Authority

The Healthcare Authority was created on October 1st, 2006, as an independent sector-specific regulator for three main types of healthcare markets: healthcare provision, healthcare purchasing and healthcare insurance. The Authority consists of a politically independent three-member board that is appointed by the Health Minister for a fixed four-year term that is once renewable. I am now Acting Chair of this Board. We are supported by an administrative staff of currently about 270 people.

Tasks of the Healthcare Authority

As the authority responsible for the functioning of health markets within the new healthcare system the Healthcare Authority combines regulatory, supervisory, executive, enforcement and advisory functions. Most significant for today's discussion are our powers as sector-specific competition authority which will be dealt with in detail later this afternoon

Relationship with the Ministry

The creation of the Healthcare Authority should be seen in the context of the political ambition to replace centralised planning and control by regulated markets. At the same time the legislator thought the general Competition Authority lacked the tools to generate and promote competition in healthcare markets where competition did not yet exist. Hence the creation of the Healthcare Authority as a sector-specific regulator forms an alternative both to the classic system of detailed regulation, and to relying on general competition policy – although the latter applies in parallel.

The independent authority aspect means that in The Netherlands healthcare policy and healthcare regulation have been separated. The Health Ministry remains responsible for healthcare policy, subject to Parliamentary scrutiny. The Healthcare Authority is responsible for healthcare regulation, subject to judicial review of its decisions. The Healthcare Minister cannot intervene in, or overrule, individual decisions taken by the Healthcare Authority. However he may set general guidelines for instance on the types of issue that he would like the Healthcare Authority to tackle. He can also strike down general rules adopted by the Healthcare Authority, or give instructions concerning such general rules. Liberalising a particular type of tariff, or changing for example from fixed prices to maximum prices or a bandwidth tariff requires an initial instruction to that effect from the Minister. Calculating and setting the tariffs is the job of the Healthcare Authority.

Relationship with the competition authority

Before concluding, I will say a few words on our relationship with the Competition Authority because this is a complex one. As a sector-specific competition authority we maintain a close working relationship with our general national Competition Authority. For example, we advise the Competition Authority in its review of merger control cases in the healthcare sector, and we have jointly contracted leading international experts to provide advice on geographic market definition in healthcare.

On issues of dominance, where we have concurrent powers, the Healthcare Authority normally takes precedence whereas in case of anticompetitive agreements in principle only the Competition Authority has a role. At the same time our interpretation of competition issues is guided by the Competition Authority although in practice this means it is based on the interpretation that prevails at EU level.

The relationships between our authorities are bound to come up here and there in the presentations that you will hear the rest of the day. Let's just say that from my perspective so far these relationships have been both fuelled by interesting issues and constructive in nature.

Conclusion

This said, I shall not detain you any longer. I am greatly looking forward to the presentation by the Cooperation and Competition Council.