

The subject of this panel is The Regulation Dilemmas with Small Insurers and Benefit Associations that have every time greater use between different markets. Examples of these activities are the health plans in private hospitals, burial plans or funeral expenses (developed generally by cooperatives), plans for automobile repair shops, credit cards, automobile rental, etc.

In this opportunity I am just going to refer to the Panamanian market, sharing with you the experiences of major importance that we have had and that we are still having regarding this matter, and later on I will give you my opinion and thoughts on this subject.

In this sense, I refer to a case that goes back to the late 80's and beginning of the 90's when there existed in Panama a company called Pansanitas. It was an association formed by doctors of different specialties who offered medical services at lower costs through monthly payments. Then competition began to rise creating this type of medical mutual associations. Their function was just to negotiate the tariffs with doctors and the cost of services by volume with the hospitals, to refer members to the medical centers and to pay for the services rendered. These systems were then used by those people who did not have social security as they were not eligible or because they were not dependants of eligible employees, or because they did not have the possibility to obtain a private insurance. These associations did not established any reserves neither did they have any type of transfer of risks nor a reinsurance.

At present there is in Panama a hospital that for more than 15 years has been promoting a Medical Plan with cost starting from \$16.00 a month and that includes people of more than 60 years of age paying a monthly cost of \$40.00 (These costs are called charges not premiums).

According to our research that includes some consumers, this plan provides access to private hospitals, at a reasonable cost, to their middle-class members, which could not be possible through the traditional insurance plans. Generally, the people who choose these plans are not insurable or cannot pay the products offered by the insurance companies and/or who exceed the age of entrance or have reached the age limit of the group plans. Generally, coverage is offered for a specific disease, say cancer, AIDS, etc. limiting the benefits granted so the members pay, in turn, a quota that includes medical care (establishing a number of medical attentions per year).

I dare to assume that the benefit associations are real and appropriate options for consumers as far as nowadays they fill an empty space in some markets more specifically with respect to health.

In Panama two groups that rendered this type of service can be clearly identified: one, as we have already mentioned, is health service which is oriented to middle-class private hospitals and the other one oriented to funeral services. Both services have a good degree of acceptance, specially the funeral service that is much more offered to the low-mid and low markets, who pay a weekly, biweekly or monthly installment that guarantees them "an honorable burial" in case of death.

Other plans that can be seen in the market, but in a much smaller scale, are those created by dentists: the famous dental plans, in which by means of a quota a number of yearly visits is granted. This same scheme has been applied by some ophthalmologists for revisions of the sight.

Other cases that provide the setting for the subject under discussion are the automobile rental companies, that offer a "so-called" insurance to their clients. Actually, many of these companies are self-insured and at the same time they contract coverage with higher deductibles. Thus, to the public they make believe that they are insuring themselves, which in certain way it is true, but what they say is that it is an insurance that the company is assuming. When imposing the obligation to use their services, acting as insurers, they force to set the differences through the civil courts in order to define responsibilities, because the lessees recover from their clients the damages caused to the vehicle if the clients are declared guilty. On the other hand, as far as the coverage is so limited and costs are so high, it appeared to the person that they have a complete insurance, when in fact it is not thus. However, they do not give the client the opportunity to choose other insurance alternatives.

All these systems are derivations of the insurance.

Although in each particular activity they have been careful when writing up their contracts so that they do not mention the word coverage or insurance in any of the clauses, if you take one of those contracts and deeply analyze it you could observe that in essence it is an insurance contract because its objective is to diversify a common risk between several people who could be affected by a loss. Moreover, many of the contracts they use to carry out their transactions, are exact copies of an insurance policy as they only change the key words for synonymous.

To this purpose our Insurance Law includes an article that reads: "Entities that promote coverage or health plans, pension or retirement funds, investment or savings funds that involve the issuance of policies or contracts, except those authorized by special laws, are also subject to the provisions of the present law."

Hence, which is the difference between a regulated industry and a non-regulated one within the scope we are analyzing?

These systems of Medical Centers or the Pansanitas style systems failed precisely due to the lack of reserves and the aggressive attitude of the insurance companies that had greater capacity to offer other products. An insurance company, as being regulated, must by law fulfill the sufficient financial standing to respond to its users including the reinsurance contracts that form a part of such capacity. On the other hand, because the benefit associations do not have technical capacity, the appropriate administration of the operations becomes difficult to them and in case there are deviations, they do not count with reinsurance coverage to guarantee those deviations. Previously, those differences hit the system.

On the other hand, there were people who did not receive the benefits, because such benefits were discontinued or finished. These enterprises had limitations, but they did not disclose them all. That is the reason why there were many surprises and surprised people.

On the contrary, the insurance companies, as being regulated, must submit to the approval of the Superintendence of Insurance the wording of their contracts and their technical basis before they market them. The exclusions and limitations as well as the causes of termination must appear in the title page of the policy in an emphasized form.

Another strong difference is that the insureds can appear at any time before the Superintendence of Insurance in case they consider that they are not receiving a good service from the regulated entities. And although the Superintendence does not have coercive force, a situation can be solved with no need of a civil resource. In the non-regulated systems the users must submit their conflicts to an arbitration court or to establish a civil process before a judicial instance claiming that what they received is not what they had paid for. This implies that most of the time the cost is not within the economic capacity of the user and, additionally, the settlement of the actions could take a long time. In the previous experience, the users did not have resources like the Superintendence because the concept of the product was simply to render the service of a group of people who had been associated to cover themselves and if the fund finished then it is just finished. An insurance product is not a simple invention to obtain a short-term benefit on the part of the promoters, but a business that is analyzed by means of an actuary, and more scientifically, because it takes into consideration the tendencies of the society.

Another advantage of the insurance companies when offering health plans is that they have doctors who can offer second and third opinions. This is a very important part. Companies like for example Pansanitas consisted of doctors who at the same time were shareholders with the purpose of increasing their levels of demands. Then conflicts of interests arose. Often patients did not require a surgery or treatments to be carried out, but this was a way to obtain a benefit from the type of system that did not have any regulation. Also, if the users required certain services they were limited sacrificing quality for the income or profitability that the plan had to generate.

The lack of regulation puts in danger the stability of the coverage because at the moment the figures are not attractive, there is no protection in the reinsurance that helps to distribute the loss.

The fact that the common user does not have a clear concept of what product is regulated and which is not, causes that in case of a bad experience with the non-regulated system of benefit, the regulated one will be also hit negatively.

The worrisome thing of a market without regulation is usually the abuses committed against the consumers who are at the margin of any law that can protect them against unscrupulous people who take advantage of this opportunity to gather easy money.

In the specific case of Panama our experience has not been negative than perhaps in other more massive markets. And to this particular the reason may be that when we deal with small countries, where playfully and seriously we say that "everybody is known", it is easy to detect irregularities of this nature, specially because they jump quickly to the public light; nevertheless, we must also admit that our market is changing as a product of globalization and the liberation of the markets.

Even though in Panama we have not had so negative experiences with this type of services, we do consider that it is dangerous to leave them without a due supervision.

We are aware that the benefit associations serve a very particular purpose to which our traditional plans do not reach, mainly because the term "private insurance" inhibits this type of market. However, this is precisely the reason why unscrupulous people use the ignorance and unawareness of the consumer to obtain financial benefit.

The previous statements lead me to a subject that is paramount for me at the moment of debating if an activity which has a public interest like the insurance industry, yet disguised with other terms, must or must not be regulated. Although it is true that to make a decision it is also necessary to make a cost-benefit analysis, so each jurisdiction should carry out a study of the strengths, opportunities, weaknesses and threats of its market activities and how it would fit in the traditional insurance system in a long-term basis, it is also true that at present the costs of non-regulated entities are greater for the society.

In the commercial environment, just a few years ago, when thinking of risks they were identified as acts of God or acts of the nature. If we observe well, nowadays the risks that we are exposed to as part of our economic and social environments have varied drastically. Changes in the weather cause many losses; nevertheless, during the last years the majority of the losses has been caused by the man. Commercial empires have perished thanks to the "creativity" and the lack of professional ethics. Not to speak of the risk of terrorism. That is something that has been occurring for decades. The central point is that the human being takes advantage of and is destroyed by itself. The State's policy is to protect all its members effectively, but making emphasis in the most helpless people, and also to protect those people who do not have enough capacity to defend themselves: the weakest part.

I consider necessary that these companies or associations be regulated, as long as they are oriented to the simple people that required this product. Also such regulations must be simple, keeping in mind the essence of the business and establishing clear rules to protect the users.