



Organisation for Economic Co-operation and Development

DAF/COMP/AR(2020)12

Unclassified

English - Or. English

31 August 2020

Directorate for Financial and Enterprise Affairs
COMPETITION COMMITTEE

Annual Report on Competition Policy Developments in Greece

-- 2019 --

This report is submitted by Greece to the Competition Committee FOR INFORMATION.

JT03464716

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Greece

Executive Summary

1. The second semester of 2019 was marked by changes in the management / administration of the Authority, regarding both the Board (decision-making arm) and the Directorate-General (investigative arm) bringing international experience and a high level of subject-matter expertise in the authority. Throughout 2019 the Authority maintained a consistent level of enforcement action, while further diversifying its advocacy and market monitoring initiatives. At the same time, the HCC enhanced its practice regarding settlement decisions the outcome of which is expected to shape the enforcement record of the Authority the following years.
2. In particular, the HCC adopted a number of infringement decisions in both Article 101 and 102 TFEU cases and imposed considerable fines totaling approx. € 30,8 million.
3. HCC's emphasis was placed on cartels as well as in abuse of dominance cases for which a commitment decision was issued. In merger control, two noteworthy Phase II decisions were issued, one with remedies. The HCC also held a hearing to assess the effectiveness of the commitments imposed in the DELTA Food Products SA/MEVGAL SA merger, concerning guaranteed minimum price for cow milk producers, as well as the general competitive conditions in the market. The HCC, also, examined the compliance of ATTICA SA with the commitments related to ferry routes following the acquisition by Attica SA of sole control over Hellenic Seaways.
4. Overall in 2019 the HCC deployed all procedural tools available to it for restoring competition in the market including a settlement of a horizontal cartel case and commitments decision. Also the Authority issued an Opinion on the Press Distribution System in Greece proposing the adoption of a series of measures aiming at ensuring free competition in the light of the protection of a minimum level of pluralism and diversity of opinion, through the freedom of circulation, distribution and sale of printed publications. A Decision was also issued on the determination and quantification of the criteria for prioritization of cases on the basis of a point system, replacing the previous relevant decisions of the HCC on this matter.
5. Furthermore, a number of old pending investigations (a little more than 80) were successfully completed, all of them during the last quarter of 2019, bringing down the average age of pending cases from 8 years in September 2019 to less than 5 years in January 2020 and less than 3,5 years in June 2020. The new leadership of the HCC also aimed at prioritizing the completion of important cases, which were already at an advanced stage of procedures, the issuing of opinions, as well as the completion of sector inquiries. In addition, the HCC has included among its priority actions the examination of cases that fall within the strategic goals put forward by the HCC's new Board. Special reference to was made to the banking and payments systems sector and also groundwork for envisaged sector inquiries on e-commerce and fintech, which were finally launched in March 2020. Finally, unannounced inspections were carried out in the banking sector.
6. In the area of advocacy, the HCC continued its awareness activities to promote competition law compliance. Under the instigation of the new leadership of the authority, the HCC has developed a strategy for the establishment of an ecosystem of stakeholders,

in particular consumer associations and regulatory authorities, with which it cooperates in order to enhance the impact of its activity. The HCC pursued an enhanced cooperation with consumer associations in Greece and the EU, signing 3 MoUs with the main consumer associations, with the support of BEUC, and also developed an enhanced cooperation with other independent administrative authorities, such as the Procurement Agency. Finally, an internal training programme has been designed and put in place in 2019, in order to enhance staff training, in particular on new technologies supporting competition law enforcement (data science, econometrics).

7. Overall, it was a year of new challenges, which attested to the HCC's increased capabilities to conduct complex investigations. The HCC continued to pursue its practices in deterring harmful behavior and taking effective enforcement action and also in terms of applying the strategic objectives laid out since the inception of the ongoing economic crisis. In particular, the HCC has a major role in promoting competition assessment of potentially distortive laws and regulations.

8. The HCC will insist on the need to put forward diversified advocacy initiatives to enhance its role and its enforcement record, in order to raise more awareness and promote a genuine competition culture.

9. Finally, the suggestions of the peer review assessment of competition law and policy in Greece undertaken by OECD will help the Authority to promote and protect competition throughout the economy as this will essentially increase productivity and overall economic performance.

Box 1. 2019 Key Achievements

Overview

The Hellenic Competition Commission's (HCC) 2019 activity was marked by the adoption of infringement and commitment decisions in both Article 101 and 102 TFEU cases and imposed fines totaling approx. € 30,8 million.

The HCC's emphasis was placed on cartels as well as in abuse of dominance cases that which included a commitment decision. Overall in 2019 the HCC deployed all procedural tools available to it for restoring competition in the market including a settlement of a horizontal cartel case and commitments decision. Also the Authority issued an Opinion on the Press Distribution System in Greece proposing the adoption of a series of measures aiming at ensuring free competition in the light of the protection of a minimum level of pluralism and diversity of opinion, through the freedom of circulation, distribution and sale of printed publications. A Decision was also issued on the determination and quantification of the criteria for prioritization of cases on the basis of a point system, replacing the previous relevant decisions of the HCC on this matter.

Furthermore, a number of pending investigations were successfully completed. The new leadership of the HCC aimed at completing, a substantial number of pending cases and also prioritizing the completion of important cases, which were already at an advanced stage of procedures, the issuing of recommendations and opinions, as well as the completion of sector inquiries. The HCC also included among its priority actions the examination of cases that fall within the strategic goals put forward by the HCC's new President. Special reference to was made to the banking and payments systems sector, the completion of the supermarkets sector inquiry and also groundwork for envisaged sector inquiries on e-

commerce and fintech. Finally, unannounced inspections were carried out in the banking sector.

In merger control, two noteworthy Phase II decisions were issued, one with remedies. The HCC also held a hearing to assess the effectiveness of the commitments imposed in the DELTA Food Products SA/MEVGAL SA merger, concerning guaranteed minimum price for cow milk producers, as well as the general competitive conditions in the market. The HCC convened in order to evaluate the effectiveness of the commitment provided in Decision 650/2017 and the conditions of competition in the fresh cow's milk market in order to decide either for the removal or extension of this. Specifically, in accordance with the above commitment, the companies DELTA FOOD SA and MEVGAL SA undertook to purchase (directly or through third parties) fresh cow's milk from each milk producer - stockbreeder, with whom they cooperated in 2017 in the specific Prefectures of North Greece with a minimum guaranteed price, based on a specific mathematical formula. The HCC decided to extend the commitment for one year and to review it again. The HCC, also, examined the compliance of ATTICA SA with the commitments related to ferry routes following the acquisition by Attica SA of sole control over Hellenic Seaways. According to the SO, ATTICA did not comply with two commitments, concerning not to expand shipping services to some of non-profit maritime links in relation to the pre-acquisition services namely a) the non-implementation of an additional maritime link on an island of “non profit” shipping service (Kavala – Lemnos) for the period October 2018 – June 2019 and b) the non – implementation of a new maritime link (Santorini-Symi) for the period October 2018-March 2019.

In the area of advocacy, the HCC continued its awareness activities to promote competition law compliance. Under the instigation of the new leadership of the authority, the HCC has developed a strategy for the establishment of an ecosystem of stakeholders, in particular consumer associations and regulatory authorities, with which it cooperates in order to enhance the impact of its activity. In particular, the HCC initiated an enhanced institutional cooperation with consumer associations both in Greece and in the EU, such as BEUC. It also pursued an enhanced cooperation with other independent regulatory authorities. Finally, an internal training programme has been designed and put in place in 2019, in order to develop new capabilities for staff, including an introduction to data science for competition law and advanced econometrics.

Enforcement (antitrust & mergers)

Key decisions and interventions in 2019 included the following:

An infringement decision regarding collusive activity with fines totaling € 27.231.954,78, finding that 17 contracting companies and 2 associations of contractors (SATE and STEAT as successor to STEIT) violated Article 1 of Greek Laws 703/1977 and 3959/2011 and Article 101 TFEU/81/85 TEC by participating in horizontal agreements for market allocation and for the distortion of tenders for public construction projects. The decision concerns undertakings which have not participated in the settlement procedure adopted for the same case. By its decision the HCC established different periods of participation for the aforementioned companies in a single and continuous infringement and imposed fines according to the period of participation of each undertaking. Finally, in relation to some companies the HCC found a separate infringement, but did not impose any penalty due to expiration of the limitation period from the date of termination of the infringement.

An infringement decision regarding vertical agreements with fines amounting to three million three hundred four thousand one hundred and ten euros (EUR 3,304,110) on “FRIESLAND CAMPINA HELLAS SA” for violation of Article 1 of Greek Laws 703/1977 and 3959/2011 and Article 101 TFEU, regarding industry cooperation agreements employed with wholesalers in the market for the production and sale of dairy products in Greece. In its decision, the HCC qualified that FRIESLAND CAMPINA HELLAS SA participated in a prohibited vertical agreement consisting of (i) resale price maintenance and (ii) imposition of a non-compete clause on its affiliated wholesalers/distributors. The decision regarded these practices, each of which has taken place at different times, as a single and continuous infringement in a time period spanning from 1996 up until at least 2014. By the same decision the HCC examined whether that company committed an infringement of Article 2 of Greek Law 3959/2011 and by majority found that the conditions for prohibition pursuant to Article 102 TFEU were not met.

Adoption of two infringement decisions regarding the sector of Electrical Installation and Certification Services. The first decision, adopted under the simplified settlement procedure, found that the Federation of the Associations of Electricians (POSEH) and eleven (11) Associations of Electricians in Greece and four of their respective Funds/Civil law partnerships that joined the above procedure, infringed national and EU rules, by entering into horizontal agreements setting minimum or fixed fees in the sector of Electrical Installation and Certification Services. Individual fines totalling 145,010.96€, depending on the individual participation of each association to the above infringement, as well as other penalties were imposed on the offenders. By its second decision the HCC found that the Association of Electrical Contractors of Attica (SEHEA), which did not follow the settlement procedure, included anti-competitive provisions in its Statute, concerning the adoption of uniform pricelists for the provision of electrical installation and certification services, in breach of national rules. According to the Decision, the Commission addressed recommendations to the SEHEA and threatened a fine in case of non-compliance.

Adoption of a commitment decision accepting and making binding the commitments proposed by "DIAGEO HELLAS SA" (“DIAGEO”) so as to address competition concerns raised on the basis of the ex-officio investigation of the Directorate-General for Competition, with regard to various commercial practices of the company in several alcoholic beverages markets. In its preliminary assessment the HCC focused on explicit and/or implicit agreements between DIAGEO and premise outlets, by which the latter provided DIAGEO with de jure and/or de facto exclusivity with regard to pouring services (for details see: <https://www.epant.gr/en/enimerosi/press-releases/item/612-press-release-acceptance-by-the-hcc-of-the-commitments-proposed-by-diageo-hellas-sa.html> - _ftn1) and various types of marketing and visibility services. To address these concerns DIAGEO proposed a set of commitments, without however admitting any infringement of competition law provisions. These commitments include, inter alia, an obligation (i) not to enter into pouring agreements with existing or new strategically important on premise outlets, which shall remain free to adopt such agreements with third party suppliers (ii) to limit the fees in relation to a particular brand for a maximum number of three (3) marketing and visibility services (iii) to fix the duration of the agreements for both pouring and marketing services to no more than twelve (12) consecutive months, and allow for termination by on premise outlets for any and no reason with a prior written notice of three (3) months. DIAGEO has committed to adopting the above principles for a period of five (5) years as from 31-01-2020.

A decision imposing interim measures against “ELMIN Bauxite SA”, a company active in the bauxite production and trading market. The HCC unanimously decided the adoption of the following interim measures: (i) to immediately supply of Mytilineos SA with the quantities of standard-quality bauxite required for the year 2019 under the specific conditions laid down in the decision, (ii) opening of negotiations with Mytilineos SA with a view to concluding a bauxite supply agreement, under the specific conditions laid down in the decision and (iii) threat of imposing a fine of eight thousand Euros (€8.000) for each day of non-compliance.

A decision imposing interim measures against “ARGOS SA”, a company active in the market of press distribution and de facto monopolist in this market. The HCC unanimously decided the adoption of the following interim measures: (i) to withdraw its new commercial policy, in respect to all publishing undertakings, (ii) to cease the unjustified refusal to shell / distribute the printed press of publishing undertakings, (iii) to cease to discriminate in relation to the refund policy by withholding amounts of insurance contributions to publishing undertakings, with immediate repayment, on equal terms and no later than 31.12.2019, the total amount due to date from the withholding of the assets, (iv) to appoint an expert in order to assess ARGOS’s SA current financial situation and/or viability, the causes that led to its current financial situation, and its new pricing policy and (v) threatened imposing a fine of five thousand Euros (€5.000) for each day of non-compliance.

In-depth investigation (Phase II review) of 2 notified mergers and acquisitions of which one cleared with remedies. The approval of the merger concerned was granted subject to behavioral remedies related to the absence of any tying of certain services, the continuity of the provision of services to existing clients in the future and the exclusion of any exclusivity agreement for the supply of certain services and products. The above remedies were imposed for an initial duration of 3 years.

Assessment of the effectiveness of the commitments imposed in the DELTA Food Products SA/MEVGAL SA merger, concerning guaranteed minimum price for cow milk producers, as well as the general competitive conditions in the market. The HCC convened in order to evaluate the effectiveness of the commitment provided in Decision 650/2017 and the conditions of competition in the fresh cow's milk market in order to decide either for the removal or extension of this. Specifically, in accordance with the above commitment, the companies DELTA FOOD SA and MEVGAL SA undertook to purchase (directly or through third parties) fresh cow's milk from each milk producer - stockbreeder, with whom they cooperated in 2017 in the specific Prefectures of North Greece with a minimum guaranteed price, based on a specific mathematical formula. The HCC decided to extend the commitment for one year and to review it again.

Examination of the compliance of ATTICA SA with the commitments related to ferry routes following the acquisition by Attica SA of sole control over Hellenic Seaways. According to the SO, ATTICA did not comply with two commitments, concerning not to expand shipping services to some of non-profit maritime links in relation to the pre-acquisition services namely a) the non-implementation of an additional maritime link on an island of “non profit” shipping service (Kavala – Lemnos) for the period October 2018 – June 2019 and b) the non – implementation of a new maritime link (Santorini-Symi) for the period October 2018-March 2019.

Opinion

The HCC issued its Opinion on the Press Distribution System in Greece proposing the adoption of a series of measures aiming at ensuring free competition in the light of the protection of a minimum level of pluralism and diversity of opinion, through the freedom of circulation, distribution and sale of printed publications. The Opinion is based on a thorough economic analysis of market conditions, business models of the undertakings active in it and the national legal framework for press distribution or the press in general. In its Opinion the HCC identifies the structural weaknesses of the sector (such as the steadily declining demand and the legislative obligation to distribute press products) giving the market in question the characteristics of a potential “natural monopoly” or “essential facility”, at least in the medium term, and considers the possibility of adopting measures pertaining to (i) the legal form of the printed-press distribution agencies (ii) amendments to the existing institutional framework and/or (iii) measures concerning intervention in the press market itself (e.g. the grant of state aid/subsidy, or the classification of press distribution services as SGEI).

Procedural issues – Priority system

The HCC issues a decision on the determination and quantification of the criteria for prioritization of cases on the basis of a point system, replacing the previous relevant decisions of the HCC on this matter. With the new point system, high-efficiency cases are prioritized and investigated, i.e. cases that maximize the possible benefits and minimize at the same time the costs for such action. Under the previous system, the final score for each case was established on the basis of a sum of points gathered based on a set of criteria, while under the updated system, the score results from measuring the impact of an alleged anti-competitive practice while taking into account the efficiency in terms of time, cost and human resources. In addition, a key change under the new system is the taking into account of an additional factor (the so-called "impending expiration factor") in order to promote cases where the alleged infringement is close to being time-barred.

Advocacy

In the context of its advocacy initiatives, the HCC co-organized in May 2019 a conference regarding recent developments in law and competition policy, with the participation of distinguished international experts in the subject matter. The conference was co-organized by the HCC and Nomiki Bibliothiki SA and ECONOMIA Group titled “Competition Law: Bringing order in a jungle” and concerned issues regarding antitrust law-key development, enforcement, judicial review and ADR, competition law enforcement and “side effects” in other areas of law and trends and aspects in state aid law.

The HCC participated in a dedicated to competition law and policy workshop held in May 2019, which was organised by SEV (the Hellenic Federation of Enterprises). The workshop concerned the presentation of an exclusive practical guide for businesses regarding compliance with the competition regulatory framework. The HCC official presented the course of an investigation of a possible infringement case by the Hellenic Competition Commission. The outcome of the workshop was positive, as it was successful in familiarizing undertakings and associations of undertakings, active in multiple sectors, with competition law and promoting compliance with the relevant rules.

The HCC continued to pursue an enhanced cooperation with other competition authorities. To this end, the Authority has signed a Memorandum of Partnership with Competition

Agency of Georgia in 2018. In that context an internship was organized in the Hellenic Competition Commission for two officials of the Georgian Competition Agency from 12-22/3/2019, in order to foster collaboration between the two authorities and exchange views and practices on procedural and substantial issues in applying competition policy.

The HCC focused to pursue an enhanced cooperation with consumer associations. To this end, the Authority has signed three (3) Memorandum of Understandings with Consumer Associations. Recognizing the mutual interest of the parties in the functioning of healthy competition and considering that cooperation between them will benefit consumers, the Hellenic Competition Commission and the Consumer Associations, EKPOIZO, INKA and KEPKA, on October 25, 2019 signed three (3) Memoranda of Understanding. The Memoranda of Understanding are intended to establish a framework for communication and promote cooperation between the parties in order to improve consumer education. They cover, inter alia, the exchange of information and the implementation of actions in areas of common interest. The Hellenic Competition Commission appreciates the important role of consumer associations in a healthy competitive economy. Aiming at strengthening their role and respective education on competition law matters, in cooperation with the European Consumer Organisation (BEUC), the Hellenic Competition Commission intends to organize seminars to enhance the involvement of consumer associations in the enforcement of competition law.

The HCC is in pursuing an enhanced cooperation with other independent regulatory authorities. The purpose of the HCC is to build an ecosystem for cooperation with other independent authorities and public bodies with a view to improving the effectiveness of our work and maximizing its deterrent effect. On 9 October 2019, the HCC signed a Memorandum of Cooperation with EAADHSY (the Public Procurement Agency), which identifies a field of joint actions and activities, such as creation of joint working groups and publication of guidelines on issues of common interest.

The new leadership of the HCC aimed at completing, pending sector inquiries eg. Supermarkets as well as to prepare groundwork for envisaged sector inquiries on e-commerce and fintech.

Finally, an internal training programme has been designed and put in place from September 2019, in order to enhance the capabilities of the staff, in particular in new technologies supporting competition law enforcement.

1. Changes to competition laws and policies, proposed or adopted

1.1. Summary of new legal provisions of competition law and related legislation

10. During 2019, the following two changes were made to the legal provisions of Greek competition law.

11. Firstly, due to the Law 4623/2019, new grounds of incompatibility were entered and apply to the status of President, the Vice-President and Board members (regular or alternate) of the Hellenic Competition Commission (HCC), Director General or Head of Directorate of the Directorate-General (DG). Such grounds of incompatibility are valid at the time of appointment and during the entirety of the mandate. According to the new

grounds, the status of the abovementioned members of HCC or DG is incompatible with the occupation of any kind of position or entrustment of duties or secondment or other employment at the office of the Prime Minister or the General Secretariat of the Prime Minister or member of the Government or political office of a member of the Government or the General Secretariat of the Government or the office of a General or Special Secretary of a Ministry, for a period of five years after being in this position or the act of entrustment or assignment or secondment or employment respectively, including the secondment of an employee or the occupation of a position of a non permanent employee, advisor, associate or paid / unpaid supervisor to one of the abovementioned offices or the General Secretariat of the Government.

12. Furthermore, due to the Law 4635/2019 new rules were entered concerning public procurement procedures or concessions in relation to criminal sanctions and other administrative consequences. Where a) an application for leniency is approved, providing for total immunity from fine or reduction of fine and full payment thereof, or b) an application for settlement is approved, providing for full payment of the fine, the undertaking concerned and any other person shall be relieved from any administrative penalty. In the above cases, the finding of the relevant infringement shall not establish grounds for exclusion of the undertaking from public procurement procedures or concessions, except the repetitive breach provided for in article 1 law 3959/2011 or article 101 TFEU.

2. Enforcement of competition laws and policies

13. The HCC adopted infringement decisions in both Article 101 and 102 TFEU cases and imposed considerable fines, notwithstanding the ongoing financial crisis. Moreover, several pending investigations were successfully completed and brought before the HCC Board for a decision, which are likely to shape the year to come. The Authority pursued cases and interventions in the area of public tenders of infrastructure projects, the production and sale of dairy products, the sector of electrical installation and certification services, the alcoholic beverages markets, the bauxite production and trading market and the distribution of Greek press. For an overview of the HCC's enforcement record in the course of 2019, see executive summary above. A summary of the key decisions is provided below.

2.1. Action against anticompetitive practices, including agreements and abuses of dominant positions

2.1.1. Summary of HCC's activities

14. In the area of antitrust, the HCC dealt with 36 alleged infringement cases applying Articles 101 TFEU (1 of Greek Competition Act) and 102 TFEU (2 of the Greek Competition Act), i.e. regarding potentially anti-competitive agreements, concerted practices, decisions of associations, as well as abuse of dominance. Moreover, the Authority also issued a number of statements of objections, thereby concluding its investigations in several high-profile cases.

15. Of the above cases, 14 were closed with rejection decisions on priority grounds concerning alleged infringements of Articles 101 TFEU (1 of Greek Competition Act) and 102 TFEU (2 of the Greek Competition Act).

16. The Authority conducted 10 dawn raids in total for the investigation of equivalent number of pending cases.

2.1.2. Description of significant cases, including those with international implications

Infringement decision in the public construction sector

17. An infringement decision regarding collusive activity with fines totaling € 27.231.954,78, found that 17 contracting companies and 2 associations of contractors (SATE and STEAT as successor to STEIT) violated Article 1 of Greek Laws 703/1977 and 3959/2011 and Article 101 TFEU/81/85 TEC by participating in horizontal agreements for market allocation and for the distortion of tenders for public construction projects. The decision concerned undertakings which have not participated in the settlement procedure adopted for the same case. By its decision the HCC established different periods of participation for the aforementioned companies in a single and continuous infringement and imposed fines according to the period of participation of each undertaking. Finally, in relation to some companies the HCC found a separate infringement, but did not impose any penalty due to expiration of the limitation period from the date of termination of the infringement.

Infringement decision in the production and sale of dairy products

18. An infringement decision regarding vertical agreements imposed fines amounting to three million three hundred four thousand one hundred and ten euros (EUR 3,304,110) on “FRIESLAND CAMPINA HELLAS SA” for violation of Article 1 of Greek Laws 703/1977 and 3959/2011 and Article 101 TFEU, regarding industry cooperation agreements employed with wholesalers in the market for the production and sale of dairy products in Greece. In its decision the HCC qualified that FRIESLAND CAMPINA HELLAS SA participated in a prohibited vertical agreement consisting of (i) resale price maintenance and (ii) imposition of a non-compete clause on its affiliated wholesalers/distributors. The decision regarded these practices, each of which has taken place at different times, as a single and continuous infringement in a time period spanning from 1996 up until at least 2014. By the same decision the HCC examined whether that company committed an infringement of Article 2 of Greek Law 3959/2011 and by majority found that the conditions for prohibition pursuant to Article 102 TFEU were not met.

Infringement decisions regarding the sector of Electrical Installation and Certification Services

19. This concerns the adoption of two infringement decisions regarding the sector of Electrical Installation and Certification Services. The first decision, adopted under the simplified settlement procedure, found that the Federation of the Associations of Electricians (POSEH) and eleven (11) Associations of Electricians in Greece and four of their respective Funds/Civil law partnerships that joined the above procedure, infringed national and EU rules, by entering into horizontal agreements setting minimum or fixed fees in the sector of Electrical Installation and Certification Services. Individual fines totalling 145,010.96€, depending on the individual participation of each association to the above infringement, as well as other penalties were imposed on the offenders. By its second decision the HCC found that the Association of Electrical Contractors of Attica (SEHEA), which did not follow the settlement procedure, included anti-competitive provisions in its

Statute, concerning the adoption of uniform pricelists for the provision of electrical installation and certification services, in breach of national rules. According to the Decision, the Commission addressed recommendations to the SEHEA and threatened a fine in case of non-compliance.

Commitment decision in alcoholic beverages markets

20. This involves the adoption of a commitment decision accepting and making binding the commitments proposed by "DIAGEO HELLAS SA" ("DIAGEO") so as to address competition concerns raised on the basis of the ex-officio investigation of the Directorate-General for Competition, with regard to various commercial practices of the company in several alcoholic beverages markets. In its preliminary assessment the HCC focused on explicit and/or implicit agreements between DIAGEO and premise outlets, by which the latter provided DIAGEO with de jure and/or de facto exclusivity with regard to pouring services (for details see: <https://www.epant.gr/en/enimerosi/press-releases/item/612-press-release-acceptance-by-the-hcc-of-the-commitments-proposed-by-diageo-hellas-sa.html> - [ftn1](#)) and various types of marketing and visibility services. To address these concerns DIAGEO proposed a set of commitments, without however admitting any infringement of competition law provisions. These commitments include, inter alia, an obligation (i) not to enter into pouring agreements with existing or new strategically important on premise outlets, which shall remain free to adopt such agreements with third party suppliers (ii) to limit the fees in relation to a particular brand for a maximum number of three (3) marketing and visibility services (iii) to fix the duration of the agreements for both pouring and marketing services to no more than twelve (12) consecutive months, and allow for termination by on premise outlets for any and no reason with a prior written notice of three (3) months. DIAGEO has committed to adopting the above principles for a period of five (5) years as from 31-01-2020.

Interim measures in the bauxite production and trading market

21. A decision imposed interim measures against "ELMIN Bauxite SA", a company active in the bauxite production and trading market. The HCC unanimously decided the adoption of the following interim measures: (i) to immediately supply of Mytilineos SA with the quantities of standard-quality bauxite required for the year 2019 under the specific conditions laid down in the decision, (ii) opening of negotiations with Mytilineos SA with a view to concluding a bauxite supply agreement, under the specific conditions laid down in the decision and (iii) threat of imposing a fine of eight thousand Euros (€8.000) for each day of non-compliance.

Interim measures in the market of press distribution

22. A decision imposed interim measures against "ARGOS SA", a company active in the market of press distribution and de facto monopolist in this market. The HCC unanimously decided the adoption of the following interim measures: (i) to withdraw its new commercial policy, in respect to all publishing undertakings, (ii) to cease the unjustified refusal to shell / distribute the printed press of publishing undertakings, (iii) to cease to discriminate in relation to the refund policy by withholding amounts of insurance contributions to publishing undertakings, with immediate repayment, on equal terms and no later than 31.12.2019, the total amount due to date from the withholding of the assets, (iv) to appoint an expert in order to assess ARGOS's SA current financial situation and/or viability, the causes that led to its current financial situation, and its new pricing policy and

(v) threatened imposing a fine of five thousand Euros (€5.000) for each day of non-compliance.

2.2. Mergers and acquisitions

2.2.1. Statistics on number, size and type of mergers notified and/or controlled under competition laws

23. In 2019 the HCC reviewed nineteen (19) merger filings pursuant to the Greek Competition Act, of which two (2) led to an in-depth review (phase II merger investigations) acquisitions of which one (HCC Decision 682/2019) cleared with remedies.

2.2.2. Summary of significant cases

Acquisition of the majority of shares of the Societe Anonyme "ALUMINUM PROCESSING METAL INDUSTRY EP.AL.ME." by the company "MYTILINEOS SOCIETE ANONYME - GROUP OF COMPANIES"

24. The concentration concerned the acquisition of sole control by the company "MYTILINEOS SOCIETE ANONYME - GROUP OF COMPANIES" over the company "ALUMINUM PROCESSING METAL INDUSTRY EP.AL.ME." With its no. 682/2019 unanimous decision, the HCC approved, in accordance with article 8 par. 6 and par. 8 of Law 3959/2011, the notified concentration consisting in the acquisition of the majority of shares (97.8723%) of "ALUMINUM PROCESSING METALIC INDUSTRY EP.AL.ME." by the company "MYTILINEOS SOCIETE ANONYME - ENTERPRISE GROUP", under the terms and conditions (behavioural remedies), according to article 8 par. 8 of Law 3959/2011, on the basis of the commitments undertaken by the acquirer, as notified to the HCC.

25. Specifically, the acquirer has undertaken the following commitments:

- a) the provision of clean aluminium waste recycling services to EP.AL.ME.'s customers shall not be conditional upon the supply of these customers with primary cast aluminium by MYTILINEOS (former AoG);
- b) The supply of primary cast aluminium produced by MYTILINEOS shall not depend on the provision of clean aluminium waste recycling services by EP.AL.ME.;
- c) To maintain the provision of recycling services to EP.AL.ME.'s existing and solvent customers, provided that the agreements between them are complied with;
- d) Not to bind their clients in written or oral agreements under any exclusivity clause in respect of secondary aluminium supply and recycling services;
- e) To publish on their web site a press release as well as send out letters of information to all their customers (aluminium extruders), communicating the above commitments.

26. The duration of the above commitments was set at three (3) years after the issuance of the operative part of the relevant HCC Decision. After the end of the three-year period referred to above, the Commission may reconsider these commitments and decide whether to extend or suspend them. It was noted that in the event of any change in the competitive

conditions in the markets under consideration, the notifying company may request the HCC to review the relevant commitments before the expiry of the initially specified three-year period.

27. According to the HCC's unanimous decision, the abovementioned behavioral commitments were considered to be adequate, proportionate, and appropriate measures to resolve the potential competition concerns identified when assessing the notified concentration in the individual markets concerned (primary / secondary cast aluminum supply and recycling services) and ultimately bring the concentration into line with competition requirements in the relevant markets and thus prevent the restriction of effective competition.

Assessment of the effectiveness of the commitments imposed in the DELTA Food Products SA/MEVGAL SA merger

28. The assessment of the effectiveness of the commitments imposed in the DELTA Food Products SA/MEVGAL SA merger, concerned guaranteed minimum price for cow milk producers, as well as the general competitive conditions in the market. The HCC convened in order to evaluate the effectiveness of the commitment provided in Decision 650/2017 and the conditions of competition in the fresh cow's milk market in order to decide either for the removal or extension of this. Specifically, in accordance with the above commitment, the companies DELTA FOOD SA and MEVGAL SA undertook to purchase (directly or through third parties) fresh cow's milk from each milk producer - stockbreeder, with whom they cooperated in 2017 in the specific Prefectures of North Greece with a minimum guaranteed price, based on a specific mathematical formula. The HCC decided to extend the commitment for one year and to review it again.

Examination of the compliance of ATTICA SA with the commitments related to ferry routes

29. The HCC examined the compliance of ATTICA SA with the commitments related to ferry routes following the acquisition by Attica SA of sole control over Hellenic Seaways. According to the SO, ATTICA did not comply with two commitments, concerning not to expand shipping services to some of non-profit maritime links in relation to the pre-acquisition services namely a) the non-implementation of an additional maritime link on an island of “non profit” shipping service (Kavala – Lemnos) for the period October 2018 – June 2019 and b) the non – implementation of a new maritime link (Santorini-Symi) for the period October 2018-March 2019.

2.3. Judicial Review

30. The Athens Administrative Court of Appeals (AACA), which reviews all HCC's decisions on the merits, issued and notified to the HCC nineteen (19) final judgments in 2019. Out of those decisions:

- (6) uphold decisions of the HCC and (1) rejects an application for suspension of enforcement
- (5) uphold decisions of the HCC on their merits and reduce the fine imposed on the appellant.

- (5) accept the appeal and annul decisions of the HCC to the extent they concern the appellant. These decisions of AACA have been or will be appealed before the Council of State
- (2) refer the case to the Council of State, due to lack of competence of the AACA

31. In addition, the Council of the State (Supreme Administrative Court) which reviews AACA decisions on legal grounds only issued and notified to the Authority two (2) judgments in the course of 2019, regarding infringement decisions. In one case, the Supreme Court accepted the appeal of the HCC of a decision of the AACA and referred the case back to the Administrative Court of Appeals for re examination. In the other case the Supreme Court rejected the appeal against a decision of the HCC.

3. The role of competition authorities in the formulation and implementation of other policies, e.g. regulatory reform, trade and industrial policies

32. In the context of its advocacy initiatives, the HCC co-organized in May 2019 a conference regarding recent developments in law and competition policy, with the participation of distinguished international experts in the subject matter. The conference was co-organized by the HCC and Nomiki Bibliothiki SA and ECONOMIA Group titled “Competition Law: Bringing order in a jungle” and concerned issues regarding antitrust law-key development, enforcement, judicial review and ADR, competition law enforcement and “side effects” in other areas of law and trends and aspects in state aid law.

33. The HCC participated in a dedicated to competition law and policy workshop held in May 2019, which was organised by SEV (the Hellenic Federation of Enterprises). The workshop concerned the presentation of an exclusive practical guide for businesses regarding compliance with the competition regulatory framework. The HCC official presented the course of an investigation of a possible infringement case by the Hellenic Competition Commission. The outcome of the workshop was positive, as it was successful in familiarizing undertakings and associations of undertakings, active in multiple sectors, with competition law and promoting compliance with the relevant rules.

34. The HCC continued to pursue an enhanced cooperation with other competition authorities. To this end, the Authority has signed a Memorandum of Partnership with Competition Agency of Georgia in 2018. In that context an internship was organized in the Hellenic Competition Commission for two officials of the Georgian Competition Agency from 12-22/3/2019, in order to foster collaboration between the two authorities and exchange views and practices on procedural and substantial issues in applying competition policy.

35. The HCC focused to pursue an enhanced cooperation with consumer associations. To this end, the Authority has signed three (3) Memoranda of Understanding with Consumer Associations. Recognizing the mutual interest of the parties in the functioning of healthy competition and considering that cooperation between them will benefit consumers, the Hellenic Competition Commission and the Consumer Associations, EKPOIZO, INKA and KEPKA, on October 25, 2019 signed three (3) Memoranda of Understanding. The Memoranda of Understanding are intended to establish a framework for communication and promote cooperation between the parties in order to improve consumer education. They cover, inter alia, the exchange of information and the implementation of actions in areas of common interest. The Hellenic Competition Commission appreciates the important role of consumer associations in a healthy

competitive economy. Aiming at strengthening their role and respective education on competition law matters, in cooperation with the European Consumer Organisation (BEUC), the Hellenic Competition Commission intends to organize seminars to enhance the involvement of consumer associations in the enforcement of competition law.

36. The HCC is pursuing an enhanced cooperation with other independent regulatory authorities. The purpose of the HCC is to build an ecosystem for cooperation with other independent authorities and public bodies with a view to improving the effectiveness of our work and maximising its deterrent effect. On 9 October 2019, the HCC signed a Memorandum of Cooperation with EAADHSY, which identifies a field of joint actions and activities, such as creation of joint working groups and publication of guidelines on issues of common interest.

37. The new leadership of the HCC aimed at completing, pending sector inquiries eg. Supermarkets as well as to prepare groundwork for envisaged sector inquiries on e-commerce and fintech.

38. Finally, an internal training programme has been designed and put in place from September 2019, in order to enhance the capabilities of the staff, in particular in new technologies supporting competition law enforcement.

3.1. Opinion

39. The HCC issued its Opinion on the Press Distribution System in Greece proposing the adoption of a series of measures aiming at ensuring free competition in the light of the protection of a minimum level of pluralism and diversity of opinion, through the freedom of circulation, distribution and sale of printed publications. The Opinion is based on a thorough economic analysis of market conditions, business models of the undertakings active in it and the national legal framework for press distribution or the press in general. In its Opinion the HCC identifies the structural weaknesses of the sector (such as the steadily declining demand and the legislative obligation to distribute press products) giving the market in question the characteristics of a potential “natural monopoly” or “essential facility”, at least in the medium term, and considers the possibility of adopting measures pertaining to (i) the legal form of the printed-press distribution agencies (ii) amendments to the existing institutional framework and/or (iii) measures concerning intervention in the press market itself (e.g. the grant of state aid/subsidy, or the classification of press distribution services as SGEI).

3.2. Procedural issues – Priority system

40. The HCC issues a decision on the determination and quantification of the criteria for prioritisation of cases on the basis of a point system, replacing the previous relevant decisions of the HCC on this matter. With the new point system, high-efficiency cases are prioritised and investigated, i.e. cases that maximise the possible benefits and minimise at the same time the costs for such action. Under the previous system, the final score for each case was established on the basis of a sum of points gathered based on a set of criteria, while under the updated system, the score results from measuring the impact of an alleged anti-competitive practice while taking into account the efficiency in terms of time, cost and human resources. In addition, a key change under the new system is the taking into account of an additional factor (the so-called "impending expiration factor") in order to promote cases where the alleged infringement is close to being time-barred.

4. Resources of competition authorities

4.1. Resources overall (current numbers and change over previous year):

4.1.1. Annual budget (in euros):

41. The HCC's competition-related budget in 2019 was 5,310,000 €.

Table 1. Competition-related budget (€)

2017	2018	2019
5,477,000	5,475,000	5,310,000

Note: Excluding sums earmarked for the purchase of a new building and sums remitted to the state budget (from HCC's surplus each year).

Table 2. Budget allocated to salary (€)

2017 (actually spent)*	2018	2019
3,682,865	3,704,658	3,601,508

4.1.2. Number of employees

Table 3. HCC Staff

Year end 2019

Staff Category	Number of staff
Competition experts (lawyers)	29
Competition experts (economists)	38
Competition experts (other)	4 (2 statisticians, 2 IT experts)
Total (competition enforcement)	71
Administrative support staff (excluding employees on secondment to other public sector entities or on unpaid leave)	23
Total	94

4.1.3. Human resources (person-years) applied to:

42. The Directorate-General of the HCC is organized in Units by reference to sectors of the economy (as this is considered to be optimal in the circumstances of the Authority). Within those Units, all non-administrative staff contributes to all areas of competition enforcement (mergers, anti-cartel, anti-competitive agreements, dominance-related issues, advocacy etc), according to their individual field of sectoral expertise and depending on the actual needs of the Authority and overall resources available (on a case-by-case basis). In

2019, the total number of staff is 94¹, out of which 71 is non-administrative staff working on competition enforcement.

4.1.4. Period covered by the above information

43. The information provided above covers the entire year 2019, i.e. from January 1st to December 31st 2019.

¹ This figure excludes the Members of the HCC Board (the decision-making arm of the authority).