



HELLENIC REPUBLIC

COMPETITION COMMISSION

Athens, May 29th 2020

PRESS RELEASE

Review of compliance of the company ARGOS SA Press Distribution Agency with the operative part of the HCC Decision no. 687/2019, pursuant to Article 25(5) of Law 3959/2011

The Plenary of the Hellenic Competition Commission (“HCC”) will convene on 14th July 2020 in order to review, following the relevant Report pursuant to Article 25(5) of Greek Competition Law 3959/2011, the compliance of the company ARGOS SA Press Distribution Agency (“ARGOS”) with the operative part of the HCC Decision no. 687/2019.

The Plenary of the HCC, by its Decision no. 687/2019¹ (adopted in the context of an investigation conducted in the market of press distribution in Greece following a request by the Minister of Economy and Development, pursuant to Article 25(5) of Greek Competition Law 3959/2011, into ARGOS for possible infringement of Articles 2 of Greek Competition Law 3959/2011 and 102 TFEU) had decided, unanimously to order interim measures vis-a-vis the said company in view of the urgency to directly prevent an imminent threat of irreparable harm to the public interest and after having considered that an infringement consisting in an abuse of ARGOS’ dominant position in the press

¹ See <https://www.epant.gr/apofaseis-gnomodotiseis/item/919-apofasi-687-2019.html>. (in Greek)

distribution market was likely and probable². The HCC Decision no 687/2019 was published on 15.05.2020 (GG B' 1852/15.05.2020)³.

The Report on the review of compliance of ARGOS with the operative part of the HCC Decision no. 687/2019, according to Article 25(5) of Law 3959/2011, makes the following findings:

1. Compliance of ARGOS with points II.1, II.2 and II.3 of the operative part of the HCC Decision no. 687/2019. However, in view of the fact that point II.2 of the operative part of the said Decision requires negotiations to be carried out by ARGOS with all publishing companies, taking into account, *inter alia*, also the public interest, it is noted that in respect of individual publishing companies the above procedure has been fruitless and their sustainability may be at risk as a consequence of the implementation of the new business policy by ARGOS. In view of this, it is proposed to order:

a) The carrying-out/continuation/initiation of negotiations between ARGOS and:

i) the publishing companies which have not signed the new business policy of the above company, as defined in points II.2 and II.3 of the operative part of the Decision, which represent a sufficient number of media titles (28,8%), and in the light of the information in the case file, may be at risk of sustainability as a result of the implementation of the new business policy.

ii) the publishing companies which have entered into business cooperation agreements according to the new business policy, however, in the light of the evidence in the case file, may be at risk of sustainability as a result of the implementation of it, if they so wish.

b) The carrying-out/continuation/initiation of negotiations between ARGOS and the above publishing companies referred to in paragraphs i) and ii), according to point II.2 of the operative part of the Decision, shall be completed within two (2) months from the notification of the operative part of the HCC Decision on the present Report. ARGOS

² See press releases on the issuing of HCC Decision no. 687/2019, at: <https://www.epant.gr/enimerosi/deltia-typou/item/730-deltio-typou-ekdosi-apofasis-epi-tis-aftepaggeltis-lipsis-asfalistikon-metron.html> (in Greek) and <https://www.epant.gr/en/enimerosi/press-releases/item/916-press-release-decision-of-the-competition-commission-ordering-interim-measures.html> (in English).

³ See HCC Announcement of May 16, 2020, at <https://www.epant.gr/enimerosi/nea/item/920-anakoinosi-dimosiefsis-apofasis.html> (in Greek)

shall inform, in writing and without delay, the companies referred to in paragraph 1a(i) and (ii) above and provide proof of such notification to the HCC.

c) The continuation of press distribution, according to the contractual terms of the previous business policy of ARGOS, as defined in point II.3 of the operative part of the Decision in respect of the publishing companies referred to in 1a(i) above, and those referred to in paragraph 1a(ii) which are willing to undertake renewed negotiations, until completion of the negotiations according to 1(b) above, with that date being the ultimate time-limit.

2. It is further proposed that the HCC appoint an Expert or Experts, according to Articles 21(7) of Law N. 3959/2011 and 20(2) of the HCC Internal Regulation, in the presence of whom the negotiations referred to in paragraph 1a between ARGOS and the publishing companies referred to in points i) and ii) of the previous paragraph should be carried out, in order to ensure the seamless, proper and smooth progress of the negotiating process. Alternatively, an arbitrator should be appointed to this end by the parties from a list of persons indicated by the HCC and within the period to be set by the latter. The (natural or legal) person(s) (Expert or Arbitrator) to be appointed, as described above, shall be, *inter alia*, responsible for the observance of the relevant practices, the reasoned written acceptance or refusal of the participating undertakings' requests with regard to the negotiation process and the written documented confirmation of taking into account, during the relevant negotiations, of the elements laid down in point II.2 of the operative part of the Decision, in particular those relating to the public interest which consists in ensuring the sustainability of ARGOS as well as that of the publishing companies. It is further proposed that the exact duties of the Expert/Experts/Arbitrator be determined in the HCC Decision on the present Report. Non-referral to arbitration, where an Arbitrator is appointed as above, should be permitted, provided that a cooperation agreement between ARGOS and its counterparty publisher, with mutually agreed terms, including an express renunciation of the referral option described above.

3. It is hereby further proposed that the proposed fine referred to in point II.4 of the operative part of the HCC Decision no. 687/2019 should not be imposed upon Argos.

It is noted that the Report is not binding for the Commission. The latter will decide upon the case after it has taken into consideration all evidence, as well as the arguments put forward by all implicated parties.