



**HELLENIC REPUBLIC
HELLENIC COMPETITION COMMISSION**

Athens, 16 November 2020

PRESS RELEASE

Subject: Statement of Objections following an *ex officio* investigation in the market of Press distribution, in relation to alleged infringements of Articles 1 and 2 of Law 3959/2011 and /or Articles 101 and 102 TFEU, as well as an *ex officio* investigation initiated pursuant to HCC’s Decision No 659/2018.

The Plenary Session of the Hellenic Competition Commission (“HCC”) will convene on 29 December 2020 to examine alleged infringements of Articles 1 and 2 of Law 3959/2011 (“Greek Competition Act”) and/or Articles 101 and 102 of the Treaty on the Functioning of the EU (“TFEU”), upon the relevant Statement of Objections (SO), following an *ex officio* investigation by the HCC’s General Directorate for Competition in the market of Press distribution, as well as an *ex officio* investigation initiated pursuant to HCC’s Decision 659/2018¹.

According to the relevant Statement of Objections, the following are assessed:

- a) in light of Articles 1 of Law 3959/2011 and 101 TFEU, contractual terms and practices related to the operation of the distribution network of ARGOS S.A. (Press distribution Agency), and
- b) in light of Articles 2 of Law 3959/2011 and 102 TFEU, an alleged abuse of dominant position by ARGOS, through the following practices:

¹ See <https://www.epant.gr/apofaseis-gnomotiseis/item/1004-apofasi-659-2018.html>.

- i) exclusivity obligations imposed *de jure* and/or *de facto* by ARGOS on the publishing companies and the distributors with whom it cooperates,
- ii) excessive pricing of ARGOS services to publishing companies,
- iii) delays in payments to publishing companies,
- iv) retention of social security contributions,
- v) discriminatory treatment through ARGOS New Commercial Policy 2019, retention of social security contributions under unequal conditions, granting of preferential credit terms and issuing of inaccurate information sheets for the circulation of newspapers and magazines of certain publishing companies, as well as,
- vi) alleged refusal to sell by means of refusal to distribute/ deficient distribution of newspapers and magazines of certain publishing companies and unilateral enforcement of unreasonable trading terms.

With respect to the above issues, according to the Statement of Objections, the following anti-competitive practices of ARGOS towards sub-distributors and sub-agents are identified: a) market sharing/ customer allocation within the selective distribution network of the above company (restriction of cross-supplies by authorized sub-distributors and sub-agents to end-points of sale, members of the network, and/or geographical areas assigned exclusively to other authorized sub-distributors/sub-agents, and, respectively, restriction of cross-supplies between sub-distributors and sub-agents), b) single branding obligation/ non-compete clause, as well as c) fixing of a minimum profit margin at the vertical level.

According to the Statement of Objections, the above restrictive practices are complementary, since each of them is aimed at mitigating the consequences of normal competitive conditions by means of market sharing/customer allocation and elimination of intra-brand and inter-brand competition within the press distribution network.

Such practices continuously extend as from August 2017 until at least the time the Statement of Objections was issued.

As per the other alleged practices of ARGOS (excessive pricing of ARGOS services to publishing companies, delays in payments to publishing companies, retention of social

security contributions) no infringement of Articles 1 and 2 of Law 3959/2011 by ARGOS is identified according to the Statement of Objections.

In view of the above, according to the Statement of Objections, the following are **ascertained**:

a) Infringement of Articles 1 of Law 3959/2011 and 101 TFEU by ARGOS S.A. and imposition of a fine, for the time period from 10.8.2017 until at least the time of issuing of the SO, for the reasons explicitly referred to in the SO.

b) Infringement of Articles 2 of Law 3959/2011 and 102 TFEU by ARGOS S.A. and imposition of a fine, for the time period from 10.8.2017 until at least the time of issuing of the SO, for the reasons explicitly referred to in the SO.

c) Obligation of ARGOS to cease the infringements of Articles 1 of Law 3959/2011 and 101 TFEU and of Articles 2 of Law 3959.2011 and 102 TFEU and to omit them in the future.

d) Omission of the exclusivity clauses from the agreements with publishing companies, which remain into force until the time of issuing of the SO, as well as from the agreements with the sub-distributors and sub-agents of ARGOS.

e) Invalidity of “single branding”/ “non-compete” clauses, which are included in the agreements of ARGOS with sub-distributors and sub-agents.

f) Invalidity and omission from the cooperation agreements with the sub-distributors and sub-agents of ARGOS of the clauses which, directly or indirectly, concern the restriction of supply of Press products by the authorized sub-distributors and sub-agents of ARGOS network to end-points of sale, but also between network members, as well as fixing of minimum prices at the vertical level.

g) Threaten ARGOS with the imposition of fines, in case the HCC decides in the future that the above-mentioned established infringements continue or are repeated.

Furthermore, as regards the *ex officio* investigation ordered pursuant to HCC’s Decision 659/2018, according to the SO it is established that there is no evidence of infringement of Articles 1 and/or 2 of Law 3959/2011 as in force, by the companies involved in the aforementioned Decision, as specifically mentioned in the relevant sections of the SO.

It is underlined that the Plenary Session of the HCC by virtue of Decision No 687/2019² decided to impose interim measures against the said company (ARGOS) due to the urgency to prevent an imminent risk of serious and irreparable harm to the public interest finding a potential abuse of ARGOS dominant position in the Press distribution market.

In this regard, the publication of the HCC Decision is expected, following the Statement of Objections,³ on the review of ARGOS compliance, pursuant to HCC's Decision No 687/2019.

Finally, it is noted that third parties have the right to intervene in cases heard before the HCC subject to the provisions of Article 23 of the Regulation of Operation and Administration of the HCC.

It is noted that the Statement of Objections is not binding on the HCC, which will decide on the case after it has taken into consideration all evidence, as well as the arguments put forward by all implicated parties.

²See HCC's Announcement on May, 16, 2020: <https://www.epant.gr/en/enimerosi/press-releases/item/914-press-release-dawn-raids-in-the-greek-press-distribution-market.html> .

³ See: <https://www.epant.gr/en/enimerosi/press-releases/item/934-press-release-review-of-compliance-of-the-company-argos-sa.html>