

**Cancels & replaces the same document of 25 May 2018**

**Annual Report on Competition Policy Developments in Greece**

-- 2017 --

**6-8 June 2018**

This report is submitted by Greece to the Competition Committee FOR INFORMATION at its forthcoming meeting to be held on 6-8 June 2018.

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## 1. Executive Summary

A landmark Settlement decision marked the HCC's activity in 2017, following the completion of its investigation for bid-rigging in the tendering of public infrastructure projects and the imposition of more than considerable fines on the leading construction companies in Greece. The HCC also adopted infringement decisions in both Article 101 and 102 TFEU cases and imposed fines totalling approx. **€ 105 million**, a record number for the Competition Authority, notwithstanding the ongoing financial crisis. The HCC's emphasis was placed on cartels with two decisions in the wholesale and retail cosmetics markets (HONDOS and Luxury wholesalers). In merger control, two noteworthy Phase II decisions were issued, in the consumer retail market's further consolidation (Sklavenitis/Marinopoulos) and in the market of dairy products (MEVGAL) under notable structural and behavioural remedies. Overall in 2017 the HCC deployed all procedural tools available to it for restoring competition in the market including acceptance of a leniency application, settlement of two horizontal cartel cases, amendment of commitments by the natural gas incumbent operator and interim measures aiming to prohibit the effects of anticompetitive association announcements in the agricultural sector. In the area of advocacy, the HCC issued additional opinions regarding the conditions of access to certain professions and continued its awareness activities to promote competition law and compliance.

In addition, the HCC maintained a consistent level of enforcement action, since a number of pending investigations were also successfully completed with several statements of objections having been issued in high-profile cases, which are expected to mark the following year and the HCC's enforcement record. The HCC's diversified record also included an interim measures decision against a local association of agricultural producers (Union of Agricultural Cooperatives of Naxos Island -EAS Naxos). The Union instructed all potato producers not to sell their winter crops earlier than 24 December 2017 for reasons of alleged public interest; if a producer ignored this direction, EAS Naxos, which purchases several goods from producers for resale, would purchase milk, in particular, at a lesser price by such producer. The HCC accepted the proposed commitments by the Union to revoke its decision and communicate to all the members of the Union as well as publish it in newspapers and the internet. The HCC imposed a notification obligation of all the aforementioned actions to the Authority and also threaten to impose a fine of 2.000 per day, in case the Union should not comply with the Authority decision.

Furthermore, the Athens Administrative Court of Appeal (AACA) and the Supreme Administrative Court upheld all HCC's decisions reviewed in the course of 2017, with a relatively few reductions in the amount of the fines imposed. It must be noted that in two recent decisions, issued in 2017, the AACA upheld the HCC's decisions for competition law infringements by two dominant firms on substance and ruled in favour of the competition authority on the issue of the duration of its investigation, finding that the duration of the investigation was reasonable, in view of the circumstances of each case.

Overall, it was a year full of new challenges, which attested to the HCC's increased capabilities to conduct complex investigations. The HCC continued to pursue the strategic objectives laid out since the inception of the ongoing economic crisis, in particular:

- Maintaining a consistent level of core enforcement action (antitrust investigations and merger control work) compared to previous years, taking into account the economic downturn and the inherent challenges in pursuing a diversified agenda;
- Placing renewed emphasis on market monitoring actions, notably by making more use of sector inquiries, while further increasing cooperation with other stakeholders; and
- Making better use of internal management tools for prioritising the investigation of cases, with a view to increasing the systemic effect of its action.

The HCC will insist on the need to take diversified advocacy initiatives to enhance its role and its enforcement record, in order to raise more awareness and promote a genuine competition culture. Finally, the initiation of the peer review assessment of the competition law and policy in Greece will help the Authority promote and protect competition throughout the economy that will essentially increase productivity and overall economic performance.

## 2. Key Achievements

### 2.1. Overview

#### 2.1.1. Enforcement (antitrust & mergers)

1. Key decisions and interventions in 2017 included the following:
  - Settlement decision with a total amount of fines totalling € 80.7 million, against fifteen (15) undertakings active in the construction sector in Greece, for participating in several collusion schemes regarding tenders for public works of infrastructure. The Decision was adopted through a simplified procedure, under the terms of the Settlement Procedure (Article 25a of the Competition Act and Decision No. 628/2016), following the submission of formal requests to settle by parties to the infringements. The parties to the infringement coordinated their business conduct on responses to invitations to tender, particularly by agreeing amongst themselves who will submit the winning bid, submitting cover bids and agreeing to jointly execute the respective works before submitting their respective bids. The collusive scheme was implemented through regular meetings of representatives of the implicated competing undertakings and/or the conclusion of compensatory contracts. The TECHNICAL OLYMPIC group of companies contributed significantly to the substantiation of the infringements. Under the Leniency Programme, TECHNICAL OLYMPIC AE received full immunity from fines. This is the first successful application of the Leniency Programme in Greece. Under the Settlement Procedure, the HCC applied a reduction of 10% to the fines imposed in view of the parties' acknowledgement of their participation in the collusion scheme and of their respective liability in this respect. Two of the undertakings have invoked their inability to pay the fine. The HCC assessed the applications on the basis of the companies' financial statements for recent years, projections for the current and coming years, ratios measuring the financial strength, profitability, solvency, liquidity, and relations with financial institutions and with shareholders. The HCC granted fine reductions to the applicants. This is the first time that the HCC accepts applications invoking inability to pay. After taking into account the particularities and economic conditions of the construction

sector, as well as aggravating and mitigating circumstances, the HCC imposed fines totalling € 80.7 million. The administrative procedure regarding other, non-settling parties to the investigation has been concluded. The decision adopted will be published in due time.

- Infringement decision with fines amounting to € 805.591 on construction companies which participated in a bid-rigging agreement in relation to a tender for the rehabilitation of landfills during 2010 and 2011 in the Prefecture of Pella. The companies coordinated their business conduct on responses to invitations to tender, in particular by agreeing amongst themselves on the company who would submit the winning bid and by engaging in cover bids or bid suppression. The ex-officio investigation by the General Directorate for Competition was initiated in 2011, following an anonymous complaint against certain construction undertakings in relation to an alleged collusion of a tender process. For the purposes of the above investigation, DG conducted dawn raids at the premises of the undertakings involved, took witness statements and sent several information requests.
- Infringement decision with fines totalling € 18.838.934.16 against six undertakings active in the wholesale trade of luxury cosmetics (namely, NOTOS COM, ESTEE LAUDER HELLAS S.A, P.N. GEROLYMATOS S.A, L' OREAL PRODUITS DE LUXE HELLAS S.A, GR. SARANTIS S.A. and PARFUMS CHRISTIAN DIOR HELLAS S.A.), for violation of art. 1 of Law 703/1977 (as was applicable), current art. 1 of L. 3959/2011, and of art. 101 TFEU. In its decision the HCC qualified as anti-competitive, agreements between wholesalers of luxury cosmetics which aimed at the indirect fixing of reselling prices by the retailers, by setting a uniform level of discounts. Therefore, the HCC imposed the following fines: a fine of € 5.388.425, 35 to ESTEE LAUDER HELLAS S.A, a fine of € 1.939.849, 41 to GR. SARANTIS S.A., a fine of € 2.624.145, 30 to L'OREAL PRODUITS DE LUXE HELLAS A.E., a fine of 1. € 793.374, 98 to PARFUMS CHRISTIAN DIOR HELLAS A.E.B.E., a fine of € 4.093.260, 42 to NOTOS COM and a fine of € 2.999.878, 70 to GEROLYMATOS COSMETICS A.E. By the same decision, the Competition Commission ordered the above mentioned companies to refrain from committing the same or a similar infringement of Article 1 of Law 703/1977 (now Article 1 of Law 3959/2011) and Article 101 TFEU and threatened each of the companies involved with a per day penalty of 10.000 euro for each day of non-compliance with the HCC decision.
- Infringement decision with fine amounting to € 153.726,77 against a company active in the luxury cosmetics sector for horizontal price-fixing. The fine was imposed against the ninth party in the context of the examination of the case against nine (9) companies controlled by HONDOS family members in the beauty and broader cosmetics sector, for engaging in horizontal price-fixing regarding the retail prices of their products, therefore violating Articles 1 of the Greek Competition Act and 101 TFEU. Last year eight (8) of the involved parties decided to settle and an infringement decision with fines was issued.
- Review of GLAXOSMITHKLINE SA and GLAXOSMITHKLINE PLC's supply policy of medicinal products Lamictal, Imigran and Serevent in the Greek market for the period from 2000 to 2006, following the partial referral of the case back to the HCC by the Athens Administrative Court of Appeal and the Council of State. The HCC found by majority that GLAXOSMITHKLINE SA and GLAXOSMITHKLINE PLC abused their dominant position in the market of migraine medicines in Greece from 2000 to 2004 with the aim of reducing

parallel exports and imposed on GLAXOSMITHKLINE SA and GLAXOSMITHKLINE PLC for the above infringements fines totalling € 4.085.423,39.

- Review of commitments decision upon DEPA that were made binding with previous HCC's decisions issued in 2012, 2014, 2015 and 2016 (551/VII/2012, 589/2014, 596/2014, 618/2015 and 631/2016) in order to abolish a specific term of the system for the supply of natural gas through electronic auctions (gas release programme) according to which the starting price of auctions (quarterly and annual) reflects any requests from its suppliers or DEPA itself to review the supply price of natural gas imported by DEPA through its long term supply contracts. This revision aims at reducing unexpected volatility regarding the auctions' starting price, while removing participants' uncertainty over its formulation. The revision is effective as of January 1, 2018. The annual auction for 2018 and the first quarterly auction for 2018, to be realised in 2017, will take place according to the conditions already set in HCC decisions 551/VII/2012, 589/2014, 596/2014, 618/2015 and 631/2016. The HCC reached the above decision in collaboration with RAE and following an oral hearing where DEPA and its customers were given the opportunity to express their views on the proposed amendment.
- Commitments decision issued regarding Roma Pizza SA, so as to meet the preliminary competition concerns with regard to the terms of its franchise / distribution system following a complaint by former franchisees, in the market of informal restaurants – quick service restaurants.
- Commitments decision made binding upon NITH (the Greek Nissan importer) as regards the alleged infringement concerning a) maintenance of resale prices (RPM) of spare parts and repair services in the context of central discount programs concerning repair services and b) access to technical information.
- Interim measures decision against a local Union of agricultural producers (Union of Agricultural Cooperatives of Naxos Island -EAS Naxos). The Union instructed all potato producers not to sell their winter crops earlier than 24 December 2017 for reasons of alleged public interest; if a producer ignored this direction, EAS Naxos, which purchases several goods from producers for resale, would purchase milk, in particular, at a lesser price by such producer. The HCC accepted the proposed commitments by the Union to revoke its decision and communicate to all the members of the Union as well as publish it in newspapers and the internet. The HCC imposed a notification obligation of all the aforementioned actions to the Authority and also threaten to impose a fine of 2.000 per day, in case the Union should not comply with the Authority decision.
- Statement of Objections addressed to the Panhellenic Federation of the Associations of Electricians (POSEH), twelve regional Associations of Electricians in Greece and four of their respective Funds/ Civil law partnerships for alleged infringement of Articles 1 of the Greek Competition Act and 101 TFEU. The case concerns the imposition and adoption of minimum or fixed fees for the provision of electrical installation and certification services in Greece or locally, as the case may be.
- Statement of objections addressed to MINERVA S.A. Edible Oils Enterprises (MINERVA) regarding its supply agreements of butter and margarine products both on the wholesale and retail level in Greece, which are allegedly in breach of Article 1 of Law 703/1977 (current Law 3959/2011) and Article 101 TFEU.

- Statement of objections addressed to the two press distribution agencies, ARGOS and EUROPI, for alleged infringements of Articles 1 and 2 of the Greek competition Act and 101(1) and 102 TFEU. According to the SO the parties established a common commercial policy, including practices such as downstream and upstream price fixing, supply limitations, exchange of commercial sensitive information, and downstream market allocation.
- Statement of objections addressed to three transporting companies in Kavala (Eastern Macedonia – north-eastern Greece) which allegedly in addition to their respective trade association, had been colluding, from 1995 to 2015, in order to fix transport rates for ELFE S.A., a leading fertilizers industry in Kavala (Eastern Macedonia- north-eastern Greece). The alleged agreements also concerned their credit policy towards ELFE, the allocation of transports, and the foreclosure of competitors.
- In-depth investigation (Phase II review) of 2 notified mergers and acquisitions both cleared with remedies.

### *2.1.2. Advocacy*

- The HCC continued its advocacy efforts in the liberalization of professional services by issuing two new opinions. The first one concerns breakdown services for motor vehicles (Opinion 36/2017), where the HCC held that the requirement, even for existing undertakings, to re-submit all documentation each year is unjustified. It further ascertained that most of the quantitative requirements (being operational in multiple areas of Greece, possessing a minimum number of vehicles and waiting stations) could be replaced by qualitative restrictions referring to minimum response times. For remote island areas in particular, quantitative requirements might be acceptable, in order to cover areas where access is significantly impeded, but only subject to relevant substantiation that accounts for the specific needs of each particular territory. In addition the HCC provided its opinion on the requirements for establishing five types of Arts Schools (Opinion 37/2017), namely (a) Higher Vocational Drama Schools, (b) Higher Vocational Dancing Schools, Higher Vocational Cinema Schools, (d) Amateur Dancing Schools, and (e) Music Academies. The essential distinction made by the HCC in this opinion was between the skills and qualifications requirements imposed on the instructors/teachers, on the one hand, and on the founders of said schools, on the other. The HCC advocated in favour of removing the relevant requirements as far as the founders/owners of these schools are concerned.
- In the context of its advocacy initiatives, the HCC co-organised two conferences regarding recent developments in law and competition policy, with the participation of distinguished international experts in the subject matter. The first one was co-organised by the HCC and Nomiki Bibliothiki SA and ECONOMIA Group titled “Cartels and Law” and concerned issues regarding cartel enforcement, leniency and settlement procedures and criminal aspects of competition law. The second conference was co-organised with the American Hellenic Chamber of Greece titled “Business and Competition in Greece in the context of the digital single market”, aiming mainly at informing the public, the legal and business community on the recent sector enquiry of the European Commission on e-commerce in addition to recent developments in the relevant sector.

- The Authority continued its cooperation with the European Public Law Organization (EPLO) and co-organised a training program seminar for National Judges in Greece on Enforcement of EU Competition Law which provided in-depth and practical training to judges and prosecutors on key issues pertaining to the enforcement of EU Competition Law in Greece, mainly regarding issues on the application of economics when enforcing competition law.
- Organization of activities regarding study visits of officials from other Competition Authorities in order to exchange enforcement and advocacy experiences and best practices.

### *2.1.3. Other Activities – Institutional Issues*

- Favourable performance assessments of the HCC made by the OECD and the European Commission (also in the context of reviewing Greece’s economic adjustment programme).
- Initiation of a Competition law and policy review (Peer Review) of the Greek Competition Authority undertaken by the OECD.

## **3. Enforcement of competition laws and policies**

2. The HCC adopted infringement decisions in both Article 101 and 102 TFEU cases and imposed record 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 retail supply chain, food & beverage markets, construction sector, personal care products, distribution of pharmaceuticals, energy (supply of gas), and liberal professions. For an overview of the HCC’s enforcement record in the course of 2017, see executive summary above. A summary of the key decisions and investigations is provided below.

### **3.1. Anticompetitive Practices (antitrust)**

#### *3.1.1. Summary of Activities regarding Anticompetitive Practices*

3. In the area of antitrust, the HCC issued nineteen (19) decisions 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.

4. The HCC further issued five (5) 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).

5. The Authority conducted twenty five (25) dawn raids in total for the investigation of four (4) pending cases.



### 3.1.2. Description of Significant Antitrust Decisions

#### *Construction sector cartel (bid rigging practices) - Settlement decision with record fines*

6. In 2016 a statement of objections was addressed to a large number of undertakings active in the construction sector in Greece regarding an alleged infringement of Article 1 of the previous competition Act (Law 703/1977)- (now article 1 Law 3959/2011) and article 101 TFEU. The case was based on an ex officio investigation which focuses on alleged collusion regarding tenders for public works of infrastructure, notably road construction, rail transport, metro rail and concession projects (public-private partnerships).

7. The HCC issued its decision in **2017**, and by unanimous vote found that fifteen (15) undertakings active in the construction sector in Greece, participated in at least one of several collusion schemes (i.e. the first spanning from 2005 to 2012, the second from 1989 to 2000 and five individual anti-competitive tenders in the years 1981-1988 and 2001-2002) regarding tenders for public works of infrastructure. The decision was adopted through a simplified procedure, under the terms of the Settlement Procedure (Article 25a of the Competition Act and Decision No. 628/2016), following the submission of formal requests to settle by parties to the infringements. In particular:

8. According to the decision, AKTOR ATE, J&P-AVAX AE, TERNA AE, AEGEK KATASKEVASTIKI AE, TECHNICAL OLYMPIC AE and INTRAKAT AE participated, with varying starting points, in a single and continuous infringement of Article 1 of the Greek Competition Act and Article 101 TFEU, by which they colluded to rig bids on tenders for public construction works, from 2005 to 2012, notably metro rail projects of 2005-2006, public-private partnerships of 2008-2009 and infrastructure works of 2011-2012. The parties to the infringement coordinated their business conduct on responses to invitations to tender, particularly by agreeing amongst themselves who will submit the winning bid, submitting cover bids and agreeing to jointly execute the respective works before submitting their respective bids. The collusive scheme was implemented through regular meetings of representatives of the implicated competing undertakings and/or the conclusion of compensatory contracts. According to the decision THEMELI AE, ERETBO AE, EKTER AE, CHR. CONSTANTINIDIS AE and DOMIKH KRITIS AE participated in individual anti-competitive tenders, in the said collusive scheme.

9. The TECHNICAL OLYMPIC group of companies contributed significantly to the substantiation of the infringements. Under the Leniency Programme, TECHNICAL OLYMPIC AE received full immunity from fines. This is the first successful application of the Leniency Programme in Greece. Under the Settlement Procedure, the HCC applied a reduction of 10% to the fines imposed in view of the parties' acknowledgement of their participation in the collusion scheme and of their respective liability in this respect. Two of the undertakings have invoked their inability to pay the fine. The HCC assessed the applications on the basis of the companies' financial statements for recent years, projections for the current and coming years, ratios measuring the financial strength, profitability, solvency, liquidity, and relations with financial institutions and with shareholders. The HCC granted fine reductions to the applicants. This is the first time that the HCC accepts applications invoking inability to pay. After taking into account the particularities and economic conditions of the construction sector, as well as aggravating and mitigating circumstances, the HCC imposed fines totalling **€ 80.7 million**.

10. In particular, the HCC imposed fines on the undertakings mentioned above, depending on their individual participation in the above infringement, as follows: - AKTOR A.T.E.: 38.495.453 €, - J&P ABAΞ A.E.: 18.320.193 €, - TERNA A.E.: 18.611.695 €, - AEGEK KATASKEVASTIKI A.E.: 532.859 €, - TECHNICAL OLYMPIC A.E.: 0 €, - INTRAKAT A.E.: 4.300.493€, - THEMELI A.E.: 110.953 €, - ERETBO A.E.: 110.953 €, - EKTER A.E.: 99.858 €, - CHR. CONSTANTINIDIS A.E.: 110.953 € and - DOMIKH KRITIS A.E.: 8.899 €. Moreover, by its decision, the HCC found that six infringements have been committed in the past, namely: - A single and continuous infringement by which AKTOR ATE, J&P-AVAX AE, ATHINA ATE, ETETH AE, TERNA AE, AEGEK KATASKEVASTIKI AE, TECHNICAL OLYMPIC AE, THEMELI AE and EKTER AE colluded to rig bids on tenders for public construction works, from 1989 to 2000. According to the decision CHR. CONSTANTINIDIS AE and DOMIKH KRITIS AE participated in individual anticompetitive tenders, in the said collusive scheme. - Five infringements regarding individual tenders in the years 1981-1988 and 2001- 2002 committed by AKTOR ATE, J&P-AVAX AE, ATHINA ATE, ETETH AE, TERNA AE, AEGEK KATASKEVASTIKI AE, TECHNICAL OLYMPIC AE, SIEMENS AG and SIEMENS SA, each having participated in at least one. The above undertakings are not subject to fines for their involvement in the infringements mentioned above due to limitation period rules concerning the imposition of fines and penalties (article 42 Greek Competition Act). By its decision the HCC found that the above undertakings as well as ELLAKTOR AE, AKTOR PARACHORISIS AE, GEK TERNA AE, TERNA ENERGIAKI ABETE, INTRACOM HOLDINGS and VINCI CONCESSIONS SA have not participated in bid-rigging schemes as to other tenders for public works of infrastructure under investigation by the HCC, notably concession projects.

11. It is noted that the administrative procedure regarding other, non-settling parties to the investigation has been concluded and the decision adopted will be published in due time.

*Construction tender processes in the Pella Prefecture – infringement decision with fines*

12. The HCC's focus on bid-rigging in tenders for infrastructure works extended to a smaller tender of local interest which led to the imposition of noteworthy fines amounting to the amount of € 805.591 on certain undertakings active in the construction sector in Greece, for violation of Art. 1 of the Greek Competition Act. In November 2010, in the city of Edessa (Central Macedonia), the Prefectural Committee of Pella organised a competitive public procurement procedure for the award of a € 4.5 million contract for the Environmental Restoration - Rehabilitation of Uncontrolled Waste Disposal Sites (HADA) of the Pella region. Following an anonymous complaint the General Directorate for Competition initiated an ex-officio investigation in 2011 against certain construction undertakings in relation to an alleged collusion of the aforementioned tender process. For the purposes of the investigation, DG conducted dawn raids at the premises of the undertakings involved, took witness statements and sent several information requests and finally addressed a Statement of Objections to certain construction companies in 2016. In 2017, after the completion of the hearing procedure, the HCC issued its decision finding that the public procurement procedure had been rigged through cover bidding and bid suppression by nine construction companies, thereby imposing the aforementioned fines.

*Cosmetics case – Infringement decision with fines*

13. In 2017 the Grand Chamber of the HCC decided, by majority, that six undertakings active in the wholesale trade of luxury cosmetics (namely, NOTOS COM, ESTEE LAUDER HELLAS S.A, P.N. GEROLYMATOS S.A, L' OREAL PRODUITS DE LUXE HELLAS S.A, GR. SARANTIS S.A. and PARFUMS CHRISTIAN DIOR HELLAS S.A.), committed an infringement of art. 1 of Law 703/1977 (as was applicable), current art. 1 of L. 3959/2011, and of art. 101 TFEU. In its decision the HCC qualified as anti-competitive, agreements between wholesalers of luxury cosmetics which aimed at the indirect fixing of reselling prices by the retailers, by setting a uniform level of discounts. Therefore, the HCC imposed the following fines: a fine of 5.388.425, 35 € to ESTEE LAUDER HELLAS S.A, a fine of 1.939.849, 41 € to GR. SARANTIS S.A., a fine of 2.624.145, 30 € to L'OREAL PRODUITS DE LUXE HELLAS A.E., a fine of 1.793.374, 98 € to PARFUMS CHRISTIAN DIOR HELLAS A.E.B.E., a fine of 4.093.260, 42 € to NOTOS COM and a fine of 2.999.878, 70 € to GEROLYMATOS COSMETICS A.E. By the same decision, the Competition Commission ordered the above mentioned companies to refrain from committing the same or a similar infringement of Article 1 of Law 703/1977 (now Article 1 of Law 3959/2011) and Article 101 TFEU and threatened each of the companies involved with a per day penalty of 10.000 euro for each day of non-compliance with the HCC decision.

*Cosmetics sector- Infringement decision with fines following last year's settlement decision against the "HONDOS CENTER" companies*

14. By a settlement decision issued last year, the HCC decided to settle a case against eight (8) companies controlled by HONDOS family members in the beauty and broader cosmetics sector regarding infringements of Articles 1 of the Greek Competition Act and 101 TFEU in a case regarding ex-officio investigation against, among others, luxury cosmetics retailers under the brand name "HONDOS CENTER". The involved parties engaged in horizontal price-fixing regarding the retail prices of their products, thereby infringing EU and national rules and for the said violation, the HCC imposed penalties in each of the 8 companies involved, amounting to € 1.053.595 in total.

15. Following the above mentioned settlement decision, the HCC issued in 2017 an infringement decision with a fine amounting to € 153.726,77 against the ninth party in the context of the examination of the case against eight (8) companies controlled by HONDOS family members for engaging in horizontal price-fixing regarding the retail prices of their products, therefore violating Articles 1 of the Greek Competition Act and 101 TFEU.

*The Glaxo case –Pharmaceuticals*

16. Following decisions 2019/2009, 2100/2009 and 1983/2010 of the Athens Administrative Court of Appeals and 1923/2012, 1922/2012, 1921/2012 and 1925/2012 of the Council of State, referring back to the Hellenic Competition Commission (HCC) certain aspects of the Glaxo Greece case for a new ruling, the HCC found by majority that GLAXOSMITHKLINE SA and GLAXOSMITHKLINE PLC abused their dominant position in the market of migraine medicines in Greece from 2000 to 2004 with the aim of reducing parallel exports, by initially refusing to meet any order of any wholesaler of medicinal product Imigran in their entirety and subsequently by refusing to meet 'ordinary' orders of wholesalers and reducing substantially the quantities supplied to them. The 'ordinary' character of wholesalers' orders was estimated by reference to the

annual size of orders and supplies per wholesaler, the national consumption per year and the pattern of previous business relations between the pharmaceutical companies and wholesalers during the years prior to the infringement.

17. In light of Court of Justice's judgement in joined cases C-468/06 to C-478/06, *Sot. Lelos kai Sia EE and Others v. GLAXOSMITHKLINE AEVERE*, the HCC further clarified that orders by certain wholesalers of medicinal product Imigran in quantities which were out of all proportion to those previously sold by the same wholesalers to meet the needs of the Greek market were 'extraordinary' in character. Refusing to meet orders of significant quantities of medicinal product Imigran essentially destined for parallel export and reducing the quantities supplied to wholesalers/ exporters, were not thus considered as instances of an abusive behaviour.

18. Furthermore, the Athens Administrative Court of Appeal in its partial referral judgments found that GLAXOSMITHKLINE SA and GLAXOSMITHKLINE PLC did not comply with the interim measures imposed by HCC by virtue of its decision 193/III/2001 and referred back to the HCC the question of the relevant period and the extent of non-compliance for a ruling. The HCC decided the partial imposition of the periodic penalty payment set by decision 193/III/2001, mainly in view of the fact that the pharmaceutical companies did not hold a dominant position in the relevant markets of medicinal products Imigran and Serevent during the entire period of validity of decision 193/III/2001.

19. Moreover the Athens Administrative Court of Appeal in its partial referral judgments found that GLAXOSMITHKLINE SA and GLAXOSMITHKLINE PLC abused their dominant position in connection with their distribution policy on the Greek market regarding Lamictal and referred back to the HCC the question of the appropriate sanction to be imposed for a ruling. The HCC deemed appropriate the imposition of a fine for the above infringement and for the relevant periods identified by the Athens Administrative Court of Appeal (from November 2000 to February 2001 and from 20.4.2001 to 19.3.2002).

20. Regarding GLAXOSMITHKLINE SA and GLAXOSMITHKLINE PLC's distribution policy for Serevent, the HCC found that the above undertakings were not dominant within the meaning of Article 2 L. 703/1977 and of Article 82 ECT in the Greek market of medicines for the treatment of respiratory diseases.

21. The HCC imposed on GLAXOSMITHKLINE SA and GLAXOSMITHKLINE PLC for the above infringements fines totalling 4.085.423,39 €

#### *Review of DEPA commitments (natural gas supply)*

22. In 2017, HCC accepted a proposal from DEPA to revise a commitment adopted with earlier HCC decisions (551/VII/2012 and 589/2014), and in particular to abolish a specific term of the system for the supply of natural gas through electronic auctions (gas release programme) according to which the starting price of auctions (quarterly and annual) reflects any requests from its suppliers or DEPA itself to review the supply price of natural gas imported by DEPA through its long term supply contracts. This revision aims at reducing unexpected volatility regarding the auctions' starting price, while removing participants' uncertainty over its formulation. The revision is effective as of January 1, 2018. The annual auction for 2018 and the first quarterly auction for 2018, to be realised in 2017, will take place according to the conditions already set in HCC decisions 551/VII/2012, 589/2014, 596/2014, 618/2015 and 631/2016. The HCC reached

the above decision in collaboration with RAE and following an oral hearing where DEPA and its customers were given the opportunity to express their views on the proposed amendment.

*Key aspects of initial commitments decision No. 551/2012*

23. By Decision No. 551/VII/2012, the HCC accepted commitments offered by DEPA, the Greek incumbent gas supplier, with a view to speeding up the liberalisation of the Greek gas supply market. DEPA was dominant in the market of natural gas supply and the secondary market of natural gas transmission and was charged of infringing art 2 of law 3959/2011 and 102 TFEU, by way of foreclosing its clients and competitors from accessing the gas network and imposing de facto exclusivity contracts, thus preventing clients from purchasing gas from other suppliers.

24. Following extensive consultation with DEPA, its competitors and its clients, and in collaboration with the Regulatory Authority for Energy (RAE), the HCC fine-tuned, revised and updated the commitments five times in 2014, 2015, 2016 and 2017<sup>1</sup> in order to facilitate their adoption in practice. The set of the commitments revolve around four main axes:

1. Unbundling of gas supply from gas transportation services
  - DEPA was obliged to unbundle the two products/services by offering to its customers a gas supply contract, not including transportation services. The price of supply of natural gas will be the same in both types of contracts.
2. Higher degree of customer mobility and introduction of fair, transparent and non-discriminatory contractual terms
  - Increase in customer mobility through (a) renegotiation of annual contractual gas quantities (ACQs) (b) Option for a one-year duration contract (c) No contracts of a duration longer than two years with customers that purchase more than 75% of their actual gas supply needs from DEPA.
3. Liquidity in the retail level
  - Introduction of electronic auction system (gas release programme): DEPA committed to auction each year 10% of its yearly gas supply to retailers and customers (amendment: currently 16%, 20% by 2020).
    - The auctions allowed HCC to engage in productive dialogue with DEPA and stakeholders in the market.
    - Competitors (and large clients) obtain gas at near cost levels
    - Almost all of the auctions have had 100% absorption rate
4. Encouragement of wholesaler entry
  - introduction of capacity constraints at transmission entry points
  - DEPA has to offer unused capacity for free
  - Priority to third parties for reservation of any future additional capacity.

*The Roma Pizza franchise network- commitments decision*

25. The HCC, pursuant to article 25 par. 6 of the Greek Competition Act, accepted and made binding the commitments proposed by Roma Pizza SA, so as to meet the preliminary competition concerns (art. 1 L. 3959/2011) expressed by the HCC regarding the market of informal restaurants – quick service restaurants, following a complaint by several former franchisees.

<sup>1</sup> Decisions No 589/2014, 596/2014, 618/2015, 631/2016 and 651/2017

26. The vertical practices examined concern the terms of the franchise agreements with the members of its network. In particular, on the basis of the commitments proposed by Roma Pizza SA:

- Regarding the issue of territorial protection, contracts shall not include a restriction on the active sales of network members and it is clarified that the franchisees may, if they so wish, install and operate their own websites and carry out online sales of their products on third party internet platforms, provided they comply with any quality standards to ensure a uniform network image.
- Concerning the alleged restriction of cross-supplies between distributors/franchisees within its selective distribution system, the franchisor undertakes to clarify its contracts to the effect that each franchisee can supply all other distributors if s/he so wishes
- The extent of the non-compete obligations is exemplified
- As to the single-branding provisions, the conditions under which these may be considered necessary for reasons of quality assurance are clarified
- With regard to the alleged resale price maintenance, although no such contractual restraint was established, it is clarified that the franchisee may sell at lower prices than the maximum prices recommended by the franchisor, issue relevant price lists – leaflets and run low-price campaigns regarding his / her shop, and also participate in short-term low price campaigns of the franchisor.

27. The HCC made the above commitments binding on the undertaking concerned without concluding whether or not there has been or still is an infringement. In case of failure of the said undertaking to comply with these commitments, the HCC may impose fines in accordance with the Greek Competition Act. The HCC rejected the other grounds of the complaint and concluded that there are no grounds to further pursue the investigation.

#### *Nissan cars distribution network- Commitments decision*

28. The HCC issued a commitments decision made binding upon NIK. I THEOHARAKIS SA (NITH- the Greek Nissan importer) as regards the alleged infringement concerning a) maintenance of resale prices (RPM) of spare parts and repair services in the context of central discount programs concerning repair services and b) access to technical information. The case was initiated upon the filing of a complaint by a member of the authorised NISSAN distribution network in Greece against NITH. Following the hearing procedure, the HCC decided a) according to the majority, to accept the proposed commitments regarding the programmes of technical services and b) unanimously, to accept the proposed commitments regarding the access to technical information. In particular as regards the alleged infringement concerning maintenance of resale prices (RPM) of spare parts and repair services in the context of central discount programs concerning repair services, NITH undertook the commitment to not impose minimum or fixed prices under any such future programs, but only maximum prices and that any discounts will be minimum and not maximum or fixed. It has also undertaken that the participation of authorised repairers in these programs will remain entirely optional. The proposed commitments are being described in a clear and precise manner and are not conditional. Monitoring compliance to the commitments would be manageable.

29. As to the second alleged infringement, the commitments provide for the following:

- Specific access terms to the relevant website (financial and conditions for registration),
- The obligation to inform stakeholders of the creation of the website, the registration conditions and the organisation of seminars (creation of a link to the importer's website, information letters, posting instructions for the use of the website, using RSS feed or corresponding, equally direct, alert tools),
- The release of technical information for all NISSAN vehicle models that circulated from 1996 and onwards,
- The characteristics of the website's search engine (the easiness of the "search and find functions")
- Other means of access to technical information than the website (via HelpDesk, telephone line).
- A resolution mechanism of future complaints (regarding RMI) raised by independent repairers (ombudsman- arbitration).

30. Regarding the commitments to the second alleged infringement, the HCC unanimously assesses that the proposed commitments are appropriate because of the immediate results that will occur on the market and especially of the expected positive effects on independent repairers. Additionally, the HCC took into consideration the instructive role of the commitments in clarifying the obligations of car importers. Furthermore, the proposed commitments implement the principle of equal treatment between authorised and independent repairers with regards to access to technical information. HCC also decided that in case of non-compliance with the commitments, the HCC may impose the fines, according to art. 25 par. 1 of the 3959/2011 Law.

#### *Interim measures - agricultural producers in Naxos*

31. The HCC's diversified record also included an interim measures decision against a local Union of agricultural producers (Union of Agricultural Cooperatives of Naxos Island -EAS Naxos). The Union instructed all potato producers not to sell their winter crops earlier than 24 December 2017 for reasons of alleged public interest; if a producer ignored this direction, EAS Naxos, which purchases several goods from producers for resale, would purchase milk, in particular, at a lesser price by such producer. The HCC reacted promptly and conducted a dawn raid investigation at EAS Naxos to examine whether its decision constituted an anti-competitive output restriction. The HCC accepted the proposed commitments by the Union to revoke its decision and communicate it to all the members of the Union as well as publish it in newspapers and the internet. In addition the Authority imposed a notification obligation of all the aforementioned actions and also threatens to impose a fine of 2.000 per day, in case the Union should not comply with the HCC's decision.

#### ***3.1.3. Description of significant investigations concluded***

32. 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. It is noted that the statement of objections is not binding for the Hellenic Competition Commission. The issuing of a statement of objections does not prejudice the existence of an infringement. The Hellenic Competition Commission will decide upon a case, after it has taken into consideration all evidence, as well as the arguments put forward by all implicated parties. The most important cases are the following:

### *Supply Agreements of butter and margarine products*

33. A statement of objections was addressed to MINERVA, a leading distributor of olive oil, butter and other edible oils and products for alleged infringements of Articles 1 and 2 of Law 703/77, current Articles 1 and 2 of Law 3959/2011, and of Articles 101 and 102 TFEU. The alleged infringements refer to vertical agreements in connection with commercial practices employed by MINERVA to butter and margarine products in Greece. According to the statement of objections, the investigation focused, on the contract clauses between MINERVA and its wholesalers imposing resale price maintenance and restriction of passive sales to other exclusive territories, in breach of Article 1 of Law 703/1977 (current Law 3959/2011) and Article 101 TFEU.

### *Associations of Electricians*

34. A Statement of Objections was addressed to the Panhellenic Federation of the Associations of Electricians (POSEH), twelve regional Associations of Electricians in Greece and four of their respective Funds/ Civil law partnerships for alleged infringement of Articles 1 of the Greek Competition Act and 101 TFEU. The case concerns the imposition and adoption of minimum or fixed fees for the provision of electrical installation and certification services in Greece or locally, as the case may be.

### *Press Distribution Agencies*

35. A Statement of Objections was addressed to the two press distribution agencies, ARGOS and EUROPI, for alleged infringements of Articles 1 and 2 of the Greek competition Act and 101(1) and 102 TFEU. According to the SO the parties established a common commercial policy, including practices such as downstream and upstream price fixing, supply limitations, exchange of commercial sensitive information, and downstream market allocation.

### *Kavala Truck drivers*

36. A Statement of Objections was addressed to three transporting companies in Kavala (Eastern Macedonia – north-eastern Greece) which allegedly in addition to their respective trade association, had been colluding, from 1995 to 2015, in order to fix transport rates for ELFE S.A., a leading fertilizers industry in Kavala (Eastern Macedonia- north-eastern Greece). The alleged agreements also concerned their credit policy towards ELFE, the allocation of transports, and the foreclosure of competitors.

## **3.2. Merger Control**

### *3.2.1. Statistics on Notified Mergers*

37. In 2017 the HCC reviewed thirteen (13) merger filings pursuant to the Greek Competition Act, of which two (2) led to an in-depth review (phase II merger investigations). In both cases the challenged mergers were resolved with remedies, which are briefly described below.



### 3.2.2. Description of Significant Merger Cases

#### *Consolidation in the retail sector*

38. As a result of the severe economic downturn and the ensuing need for recapitalization, a wave of merger and acquisitions in the retail sector has emerged, involving several super market chains. In 2017 the HCC was called to clear the acquisition of control by a major super market chain (Sklavenitis) over entities within (or parts of) the Marinopoulos supermarket retail group, the largest at that point retail chain in Greece. This transaction has been one of the most complex and challenging the HCC has dealt with in the retail sector over the last few years.

#### *The Sklavenitis- Marinopoulos merger case*

39. The HCC cleared, on 26 January 2017, the proposed acquisition by the SKLAVENITIS supermarket retail group of sole control over entities within (or parts of) the MARINOPOULOS supermarket retail group, subject to structural and behavioural commitments offered by the notifying party to remedy the HCC's concerns as to the compatibility of the transaction with Greek merger control rules. The transaction, which involves the acquisition of 383 supermarket retail stores by SKLAVENITIS, follows the conclusion of a restructuring/rehabilitation plan concerning MARINOPOULOS pursuant to Arts. 106b and 106i of the Greek Insolvency Code.

40. The HCC's approach to tackle the competition concerns arisen by the new entity's high shares in certain geographic areas was to depict market concentration on the basis of areas defined by postal code. Further, it provided market shares separately on the basis of turnover and surface (m<sup>2</sup>) of stores. Based on this segmentation, it discerned four districts, where Sklavenitis would acquire more than 50% turnover market share, but less than 50% in surface turnover. In those markets, it held that the high number of competitors (8-11) and competing stores (49-87) in each market, as well as the potential to utilise store surface capacity, ensured a sufficient number of post-merger competitive pressures exerted on Sklavenitis. However, there were 14 areas in the Prefecture of Attica where Sklavenitis' high turnover market shares (in some areas ranging in the 65-75% area) would be combined with surface market shares exceeding 50%. In these areas, the HCC concluded that the concentration would create anticompetitive effects. By the same token, the HCC assessed the concentration's effects on competition in the prefectures of Heraklion, Lasithi, Chania, Rethymno, and Corinth, finding three areas in Heraklion and one in Lasithi, where Sklavenitis' post-merger market power would stifle competition.

41. On the basis of the above reasoning, as described in detail in the SO, Sklavenitis undertook the following set of commitments, both behavioural and structural:

- Behavioural: For three years following the transaction, Sklavenitis will continue to purchase products from (a) suppliers that made more than 22% of their turnover in Sklavenitis and Marinopoulos, and (b) local suppliers, i.e. suppliers located near the newly acquired supermarkets. Certain exceptions were provided in case a product becomes obsolete or inappropriate.
- Structural: Within six months from the conclusion of the transaction, Sklavenitis undertakes to divest 22 stores in order to lower its market share in the affected markets below the 50% threshold.

42. During the course of 2017, another important case, which was cleared with imposed conditions, came under the scrutiny of the Competition Authority in the food sector.

*The DELTA FOODS- MEVGAL case*

43. By its unanimous Decision No. 650/2017, the Hellenic Competition Commission (HCC) has cleared, under Greek merger control rules, the notified concentration regarding the acquisition by DELTA FOODS S.A. and members of the Hatzakos family, of joint control of MEVGAL S.A. Both DELTA FOODS S.A. and MEVGAL S.A. are companies active in a range of dairy product markets. The HCC's in-depth investigation indicated that the proposed transaction, as originally notified, raised competition concerns notably in the Greek market for chocolate milk and in the Greek market for the procurement of raw cow's milk. The notifying parties offered commitments in order to address these concerns. The HCC approved the notified concentration, subject to the following conditions and obligations which mainly focus on the provision by DELTA FOODS S.A. and MEVGAL S.A. of a minimum guaranteed purchase price to milk producers – farmers, concerning the procurement of raw cow's milk, and on the fully independent and autonomous operation of the companies DELTA FOODS SA and MEVGAL SA as regards chocolate milk.

44. In particular, the parties undertook the following commitments:

45. Regarding the procurement of raw cow's milk in the Greek territory

- DELTA FOODS S.A. and MEVGAL S.A. shall purchase (directly or via third parties) raw cow's milk from milk producers at (at least) a minimum guaranteed price (based on a specific formula). This commitment will concern the Prefectures of Macedonia, Serres, Kilkis, Thessaloniki, Imathia, Kozani, Pella, Florina, Kavala and Xanthi, where the two companies individually or jointly made at least 22% of the total purchases of raw cow's milk, as well as the neighbouring Prefectures of Grevena, Pieria and Chalkidiki. Each of the buyers (DELTA FOODS S.A. and MEVGAL S.A.) may, of course, offer higher prices. This commitment will initially apply for a period of two years<sup>2</sup>.
- Agreements with milk producers will not exceed the annual duration, and will not contain exclusivity clauses or excessive conditions for the provision of guarantees.

46. Regarding the relevant chocolate milk market in the Greek territory

- DELTA FOODS S.A. and MEVGAL S.A. will operate independently with regard to chocolate milk. The activities of DELTA FOODS S.A. and MEVGAL S.A. regarding chocolate milk respectively will remain autonomous, and the two companies shall retain an independent administrative structure and commit not to exchange confidential information about these activities and not to allow the dissemination, in any way, of such information.
- This operational independence of the two companies will be ensured in particular by:

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<sup>2</sup> At the end of the two-year period, the HCC will re-assess the effectiveness of this commitment and the conditions of competition on the market and may decide to remove or extend this commitment for not more than two years.

- The exclusion of the activities of MEVGAL S.A. in chocolate milk from the exercise of DELTA FOODS S.A.'s management rights over MEVGAL S.A.,
- The creation of "Chinese walls" to prevent the release or exchange of commercially sensitive information between the two companies on chocolate milk.
- No synergies will be developed regarding the production and marketing of chocolate milk. The parties may use a common distribution network through third party independent partners.
- For the duration of the joint control over MEVGAL S.A., the staff of DELTA FOODS S.A. will be distinct from the staff of MEVGAL S.A. regarding chocolate milk activities/duties and will not work in the same premises, nor will it be solicited by the other company.
- DELTA FOODS S.A. and MEVGAL S.A. will have autonomous systems (including IT systems) for the duration of the common control of MEVGAL S.A.
- Also, the parties will remove exclusivity terms regarding chocolate milk in the freezers granted to small outlets by DELTA FOODS S.A. and MEVGAL S.A. and it will be expressly stipulated in the agreements that the vendor may place competitive products in the said freezers.

47. The commitments under A and B apply to DELTA FOODS S.A. and MEVGAL S.A. as well as to the companies of the Groups to which they belong, respectively. The Commission decision stipulates that, in the event of non-compliance with these terms and conditions, a fine of up to 10% of the turnover for the last financial year may be imposed on the parties. In addition, a Monitoring Trustee will be appointed to ensure compliance with the commitments.

### 3.3. Judicial Review

48. The Athens Administrative Court of Appeals (AACAA), which reviews all HCC's decisions on the merits, issued seventeen (17) final judgments in 2017. Out of those decisions:

- All 17 were upheld on appeal (in 8 of those the Court confirmed the HCC's findings on substance, but adjusted the fine imposed).
- In 1 decision the Court partially upheld the case on its merits and referred it back to the HCC to re-examine the remainder.

49. In addition, the Council of the State (Supreme Administrative Court), which reviews AACAA decisions on legal grounds only, issued and notified to the Authority 3 judgments in the course of 2017, regarding infringement decisions. The HCC's decisions prevailed in all those cases. Additionally in one case the undertaking involved withdrew its further appeal against the relevant AACAA decision, therefore leading to the confirmation of the HCC's decision.

#### *3.3.1. Important court judgments 2017 (beer market and baby diapers)*

50. It must be noted that in two recent decisions, issued in 2017, the AACAA upheld HCC's rulings for competition law infringements by two dominant firms.

51. The first decision concerns an HCC infringement decision against Procter & Gamble (P&G) for violation of Articles 101 and 102 TFEU, as well as Articles 1 and 2 of the Greek Competition Act. In 2013 the HCC decided, by majority vote, that P&G had

engaged in anticompetitive commercial practices aimed at maintaining and/or strengthening its dominant position in the market for baby diapers, thereby excluding competitors and limiting their growth possibilities. Based on the gravity and duration of the infringement, and after taking into account the particularities and economic conditions of the case, the HCC imposed on P&G fines totalling € 5.3 million.

52. The Court upheld the HCC's decision on substance and ruled in favour of the competition authority on the issue of the duration of its investigation, finding that a 5-year period was, in view of the circumstances, reasonable and did not constitute violation of P&G's defence rights. The AACA reduced the fine imposed by the HCC only by the amount of 872.756 €.

53. The second Court decision concerns the HCC's landmark fine totalling € 31.451.211 which was imposed on Athenian Brewery S.A. (Greek subsidiary of Heineken) in 2014 for commercial practices that violated Article 2 of the Greek Competition Act and 102 TFEU. The dominant firm's practices mainly comprised of (a) exclusivity and loyalty rebates and discriminative practices in the instant consumption market (key accounts and other points of sale), (b) loyalty discounts in agreements with retail chains which were granted provided the company achieved a "satisfactory" shelf space level, and (c) exclusivity, loyalty and discriminatory benefits to wholesalers who excluded competitors and traded exclusively in Athenian Brewery products. The HCC also imposed a daily penalty for non-compliance and obliged the company to enter into written agreements with all its customers (wholesalers, S/M's and final points of sale), stating clearly any services provided by customers which were remunerated by the company and including a provision stating that customers are free to trade in competing products.

54. The Court upheld the HCC's decision fully in substance, in procedural matters and the assessment of evidence, while effecting a small reduction to the fine (to 26.7 million €). The Court also held that the duration of the investigation was reasonable, in view of the circumstances of the case<sup>3</sup>.

#### 4. Advocacy – other initiatives

55. In recent years, the HCC has taken steps to diversify and expand considerably its advocacy efforts and overall outreach activities, both as a result of the ongoing financial crisis and the sustained role of the HCC in promoting structural reforms in the context of Greece's Economic Adjustment Programme. For this purpose, a variety of instruments have been used by the Authority, including (a) formal opinions—recommendations for legislative change addressed to the government (upon request by the competent line ministries or at its own initiative); (b) targeted screening and regulatory impact assessment initiatives in cooperation with the OECD; and (c) publication of compliance and awareness guides.

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<sup>3</sup> Namely the complexity of the case and the extensive investigative measures and resources required on behalf of the Authority and the expansion of the investigation to a big number of points of sale / consumption of beer, HORECA chains, super markets, wholesalers across Greece, the extensive proceedings provoked by the defendant's challenging, before the administrative courts, the Authority's decision to examine together the ex officio and upon complaint investigations (for almost four years), the nature of the practices examined, the exercise of the rights of defence etc.

56. During the last 4 years, the HCC's task force on liberal professions reviewed laws and regulations affecting a number of regulated professions, ultimately issuing more than 25 formal opinions aimed at identifying and removing regulatory obstacles as regards the access and exercise of a number of professional services. According to the OECD Economic Survey for Greece (November 2013), it is estimated that around **75% of nearly 350 regulated professions** had been opened to competition, in line with the Hellenic Competition Commission recommendations (opinions issued by the HCC in the context of its enhanced advocacy role)<sup>4</sup>.

#### 4.1. Recent Opinions issued by the HCC

57. The HCC continued its advocacy efforts in the liberalization of professional services by issuing two new opinions. The first one concerns breakdown services for motor vehicles (Opinion 36/2017), where the HCC held that the requirement, even for existing undertakings, to re-submit all documentation each year is unjustified. It further ascertained that most of the quantitative requirements (being operational in multiple areas of Greece, possessing a minimum number of vehicles and waiting stations) could be replaced by qualitative restrictions referring to minimum response times. For remote island areas in particular, quantitative requirements might be acceptable, in order to cover areas where access is significantly impeded, but only subject to relevant substantiation that accounts for the specific needs of each particular territory. In addition the HCC provided its opinion on the requirements for establishing five types of Arts Schools (Opinion 37/2017), namely (a) Higher Vocational Drama Schools, (b) Higher Vocational Dancing Schools, Higher Vocational Cinema Schools, (d) Amateur Dancing Schools, and (e) Music Academies. The essential distinction made by the HCC in this opinion was between the skills and qualifications requirements imposed on the instructors/teachers, on the one hand, and on the founders of said schools, on the other. The HCC advocated in favour of removing the relevant requirements as far as the founders/owners of these schools are concerned.

#### 4.2. OECD Competition Assessment Projects

58. The HCC's partnership with the OECD on all three competition assessment projects is a testament to the authority's capabilities and commitment in further strengthening its advocacy role. Following the conclusion of three competition assessment projects that were conducted during the past four years, the HCC continued to provide its assistance on the basis of its expertise. As regards specific and/or quantifiable results:

- 1<sup>st</sup> Joint OECD-HCC Competition Assessment Project: A team of HCC & OECD experts reviewed **more than 1,000 pieces** of legislation, ultimately identifying 555 problematic regulations and making more than 320 recommendations on legal provisions that should be amended or repealed in 4 sectors Greek economy: food processing, retail trade, building materials and tourism<sup>5</sup>. It is estimated that approx. 80% of the project's recommendations were adopted and enacted into law by the Greek government in the course of 2014.

<sup>4</sup> See e.g. OECD Economic Surveys – Greece, November 2013, p. 30 et seq.

<sup>5</sup> See <http://www.oecd.org/greece/greececompetitionassessment.htm>.

- 2<sup>nd</sup> Joint OECD-HCC Competition Assessment Project: The team of HCC & OECD experts reviewed 482 pieces of legislation, identified 154 potential restrictions and made 88 recommendations for change, following a 5-month in-depth review of legislation to identify potential regulatory obstacles to competition in 4 additional sectors of the economy: manufacture of coke and refined petroleum products; manufacture of textiles, wearing apparel, leather and related products; manufacture of beverages and manufacture of machinery and equipment.
- Following the successful implementation of the 1<sup>st</sup> and the 2<sup>nd</sup> Joint HCC-OECD Competition Assessment Projects, a 3<sup>rd</sup> Joint OECD-HCC Competition Assessment Project was concluded after reviewing legislation in five designated sectors of the Greek economy (e-commerce, construction, media, wholesale trade and selected subsectors of manufacturing such as chemicals, pharmaceuticals and media). Using the methodology provided in the Competition Assessment Toolkit, the project team examined 1288 sector-relevant pieces of legislation, identified 577 possible restrictions to competition and made 356 recommendations to correct them by less restrictive policies.

### 4.3. Other initiatives and outreach activities

59. In the context of its advocacy initiatives, the HCC co-organised two conferences regarding recent developments in law and competition policy, with the participation of distinguished international experts in the subject matter. The first one was co-organised by the HCC and Nomiki Bibliothiki SA and ECONOMIA Group titled “Cartels and Law” and concerned issues regarding cartel enforcement, leniency and settlement procedures and criminal aspects of competition law. The second conference was co-organised with the American Hellenic Chamber of Greece titled “Business and Competition in Greece in the context of the digital single market”, aiming mainly at informing the public, the legal and business community on the recent sector enquiry of the European Commission on e-commerce in addition to recent developments in the relevant sector.

60. The Authority continued its cooperation with the European Public Law Organization (EPLO) and co-organised a training program seminar for National Judges in Greece on Enforcement of EU Competition Law which provided in-depth and practical training to judges and prosecutors on key issues pertaining to the enforcement of EU Competition Law in Greece, mainly regarding issues on the application of economics when enforcing competition law.

61. The HCC organised a series of activities regarding study visits of officials from other Competition Authorities in order to exchange enforcement and advocacy experiences and best practices, the most important one being a week study visit of officials from the NCA of Germany (Bundeskartellamt).

#### 4.3.1. Other Activities – Institutional Issues

62. Favourable performance assessments of the HCC made by the OECD and the European Commission (also in the context of reviewing Greece’s economic adjustment programme).

63. Initiation of a Competition law and policy review (Peer Review) of the Greek Competition Authority undertaken by the OECD.

## 5. HCC RESOURCES & ADMINISTRATION

### 5.1. Digitalization of services

64. The HCC successfully proceeded in digitalising its services, including case management and other internal procedures. As previously reported, by implementing this project, the HCC aims at providing enhanced digital services to citizens and enterprises, thereby reducing costs, burdensome procedures and bureaucracy as a whole. The new technologies infrastructure will further contribute to the upgrade and streamlining of all HCC's databases, while rendering case management more effective. The project, which is financed by EU funds, was substantially completed during the previous year and the Authority is fully committed to expand its use by all affected stakeholders, in order to raise awareness of competition law and the HCC's enforcement record.

### 5.2. Annual budget

**Table 1. Competition-related budget (€)**

2016	2017	2018
6,353,000	5,477,000	5,577,600

*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 allotted to salary**

2015 (actually spent)	2016 (actually spent)	2017 (actually spent)*
3,734,000	3,731,829	3,682,865

### 5.3. Human Resources

65. During 2017, there has been a further decline in the total number of the Authority's employees, with a significant number of experts being seconded to other departments of the public sector. The reduction of the personnel and the public sector recruitment restrictions, currently in force due to the current financial status of the country, had an inevitable consequence on the ability of the HCC to perform its role in an efficient and timely manner. The HCC expects a significant reinforcement in 2018 with the appointments of 11 experts (2 economists + 9 lawyers) following the successful completion of the selection procedure carried out by ASEP.

66. The Directorate-General of the HCC is organised 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 2017, total number of staff is 83<sup>6</sup>, out of which 53 is non-administrative staff working on competition enforcement<sup>7</sup>.

**Table 3. HCC Staff (year end 2017)**

Staff Category	Number of staff
Competition experts (lawyers)	18
Competition experts (economists)	30
Competition experts (other)	5
<b>Total (competition enforcement)</b>	<b>53</b>
Administrative support staff (excluding employees on secondment to other public sector entities or on unpaid leave)	30
<b>Total</b>	<b>83</b>

*Note:* Add the note here. If you do not need a note, please delete this line.

*Source:* Add the source here. If you do not need a source, please delete this line.

<sup>6</sup> This figure excludes the Members of the HCC Board (the decision-making arm of the authority).

<sup>7</sup> Two (2) senior IT experts qualify as “administrative” staff, although they have a central role in conducting dawn raids and handling the electronic data of the investigations.