



Competition Law Newsletter

March 2020

Competition Law & COVID-19

STAVROPOULOS & PARTNERS
LAW OFFICE



Competition Law & COVID-19

The present newsletter summarises the position and the measures taken by both the Hellenic Competition Commission (the “**HCC**”) and the European Commission (the “**Commission**”) in terms of public enforcement of competition law and state aids framework respectively in order to deal with the COVID-19 pandemic.

➤ *Public competition law enforcement & COVID-19*

The HCC has published three press releases¹ in order to inform the public about:

- the application of competition law in extraordinary economic and social circumstances;
- the application of competition law in supply and distribution agreements; and
- its current investigation to healthcare undertakings.

I. Application of competition law with regard to COVID-19

The HCC stresses that it will be extremely vigilant in order to detect any anti-competitive practices arising due to the current pandemic and that it will prioritize enforcement against such practices. Likewise, severe sanctions shall be imposed on undertakings engaging in such practices.

In that context, it underlines that undertakings should act independently and avoid the conclusion of any horizontal/vertical agreements, adoption of concerted practices which distort competition and harm consumer welfare such as price fixing, limitation of production, market allocation etc.

With regard to dominant companies, the HCC reiterates its strict approach against any exploitative (i.e. excessive pricing) and exclusionary practices (i.e. exclusivity and tying practices, loyalty inducing rebates, refusal to supply, discriminatory treatment/pricing).

¹ As of 7.03.2020, 16.03.2020 and 21.03.2020



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II. Application of competition law in supply and distribution agreements

The HCC refers that any vertical agreements which entail hardcore restrictions such as resale price maintenance (i.e. imposition of minimum or a fixed resale practice) are strictly prohibited.

On the other hand, the HCC highlights that the imposition of recommended and maximum resale prices are permitted to the extent such imposition complies with the guidelines set out in the Block Exemption Regulation. In addition, the HCC lists certain indicative examples such as:

- The manufacturer of personal hygiene products may set the maximum resale prices of his products by his buyers / customers retailers;
- In a food distribution network, the producer may set recommended resale prices for these products;
- If a new product is introduced, even the setting of a resale price may be justified for short periods (e.g. in relation to promotions / campaigns from 2 to 6 weeks);
- An internet platform / marketplace can set a price cap on the products which are made available through it.

III. HCC's investigation in healthcare companies

Following consumer complaints and media reports regarding price increases and shortages of healthcare products at retail outlets, the HCC sent the past week requests for information to a great number of healthcare companies active in the production, import and marketing of healthcare products such as surgical masks, disposable gloves, antiseptic wipes and antiseptic solutions.

It is interesting to note that the HCC sent such requests through an innovative method (i.e. via an online programme) which enables it to swiftly analyse the data collected through data analytic tools. Such method facilitates the HCC to decide quickly whether further action is needed and may be extended to other sectors which appear price increases and limitation of output.

Finally, the HCC repeated its continuous monitoring on the market due to COVID-19 and stressed again its strict stance against businesses engaging in competition law infringements arising in these extraordinary circumstances.



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➤ **State Aids & COVID – 19**

On March 19, 2020, the European Commission issued a temporary framework to support the economy in the context of COVID-19 outbreak (the “**Framework**”).

Such framework is based on article 107(3)(b) of the Treaty of Functioning of the European Union (“**TFEU**”) which stipulates, inter alia, that aid to remedy a serious disturbance in the economy of a Member-State may be considered compatible with the internal market.

The Framework shall apply from March 19 until 31 December and targets small and medium enterprises in order to remedy their liquidity shortage. Namely, it permits the following types of state aids for companies facing financial difficulties after December 31, 2019:

- Direct grants, repayable advances or grant advantages up to 800.000,00 € per business. In that context, the Ministry of Finance has announced the financing (up to 1bn € to all businesses) through a refundable advance payment, depending on certain criteria such as the decrease in turnover and salary and non-salary personnel costs of the affected businesses. Specific conditions apply for agricultural, fisheries and aquacultural sectors;
- State guarantees on bank loans;
- Subsidized interest rates for loans;
- Guarantees and loans channeled through credit institutions or other financial institutions.

Such Framework supplements other options granted to the Member States such as article 107(2)(b) of the TFEU which provides that Member States may provide aid to businesses for damages caused by exceptional circumstances (e.g. industries of tourism and retail).

Finally, the European Commission Communication as of March 13 2020, on a coordinated economic response to the COVID-19 outbreak, lists the various options available to Member States which fall outside the scope of EU State aid control and which they may put in place without the involvement of the Commission. These include measures applicable to all undertakings regarding wage subsidies, suspension of payments of corporate and value added taxes or social welfare contributions, or financial support directly to consumers for cancelled services or tickets not reimbursed by the concerned operators.



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The present newsletter contains general information only and is not intended to provide specific professional advice or services.

If you need further assistance or information with regard to the above please contact:

*E.Tsiri@stplaw.com
E.Armata@stplaw.com*
