



HELLENIC REPUBLIC
HELLENIC COMPETITION COMMISSION

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PRESS RELEASE

The Hellenic Competition Commission issues an Opinion concerning the distribution of infant milk

By its Opinion No 12/VI/2011, the Hellenic Competition Commission – acting on the basis of Article 23(1) of Law 3959/2011 and taking into account the recommendation of the Directorate-General for Competition – unanimously proposed the abrogation of paragraph 2 of Article 2 of the Ministerial Decision Y1/G.P. 47815/2008-GG 1478/B/28.07.2008 concerning the selling of infant formulas (for infants under the age of 6 months) solely in pharmacies, and in particular for those of such products which are available without prescription. The aforementioned regulation, which provides for such formulas to be exclusively sold in pharmacies, constitutes an impediment to the proper functioning of free competition which cannot be justified on the basis of overriding public policy considerations.

According to the HCC's Opinion, the said regulation imposes entry barriers to potential competitors (e.g. food retailers) and forecloses the retail market, while limiting the freedom of suppliers to use alternative distribution networks. It thus renders the distribution of the products concerned less efficient and results in the consumer being deprived of choice and potential benefits arising from combining distribution and price competition.

Far from being suitable and objectively necessary, the ensuing entry barriers lack a proportional regulatory objective pertaining to public interest, such as possibly the protection of infants' health and the encouragement of breastfeeding. This is due to the fact that consumer protection, as well as the quality of infant formulas, is ensured by means of the applicable European and national legislation that regulates *inter alia* the products' composition, labelling, advertising and marketing, with binding provisions and regardless of infants' age. In addition, the perceived consumer benefit resulting by the existing system of pharmacies on night-services duty will not be adversely affected by the proposed abrogation, since pharmacies will continue to sell infant formulas alongside food retailers, as is currently the case with follow-on formulas for infants above the age of 6 months and other baby foods.