



**HELLENIC REPUBLIC
COMPETITION COMMISSION**

Athens, June 04, 2019

PRESS RELEASE

Subject: Decision of the Competition Commission ordering, on an ex officio basis, interim measures, pursuant to article 25(5) of L. 3959/2011, in the context of an investigation conducted into the market of press distribution at the request of the Minister of Economy and Development, against ARGOS SA Press Distribution Agency (“ARGOS”) for possible infringement of articles 2 of L. 3959/2011 and 102 TFEU.

By its unanimous Decision No. 687/4-6-2019, ordering, on an ex officio basis, interim measures, pursuant to article 25(5) of L. 3959/2011, in the context of an investigation conducted into the market of press distribution at the request of the Minister of Economy and Development, against ARGOS SA Press Distribution Agency (“ARGOS”) for possible infringement of articles 2 of L. 3959/2011 and 102 TFEU, the Grand Chamber of the Hellenic Competition Commission (“HCC”) unanimously, and in an open vote, decided, that:

I.1. An infringement, consisting in an abuse of dominance, in accordance with Article 2 of Law 3959/2011, and Article 102 TFEU, is likely to have been committed by ARGOS, in particular:

- a. An unjustified refusal to sell, consisting in a refusal to continue business relationships by means of a unilateral and sudden imposition of the terms of the new commercial policy of ARGOS, the lack of timely information of publishing companies on these terms and, notably, the refusal to effectively negotiate with the publishing companies in relation to the imposition of these terms, actions that seem to be inconsistent with good faith and fair trading practice, according to articles 2(c) of L. 3959/2011 and 102(c) TFEU.
- b. The imposition of unreasonable trading conditions consisting in imposing 'Other terms of cooperation' (clause 5) of the new commercial policy of ARGOS on publishing companies, which is a unilateral action that, in principal, seem to be inconsistent with good faith and fair trading practice, according to articles 2(2) indent (a) of L. 3959/2011 and 102(a) TFEU.
- c. A discriminatory treatment in relation to the policy of refunding the amounts withheld from social-security contributions, both between shareholders (publishing companies) of ARGOS and non-shareholders (publishing companies), and between the non-shareholding publishing companies of ARGOS pursuant to Articles 2 , par. 2(c) of Law 3959/2011 and 102(c) TFEU. In particular, while for certain publishing companies, shareholders of ARGOS, there are no outstanding issues regarding social security contributions withheld, which were subsequently refunded to certain publishing companies, non-shareholders of ARGOS, the company has refunded only a part of the contributions withheld, and even, to

a number of them, by post dated checks from its customers. Furthermore, ARGOS, has paid off the total amount of the insurance contributions for some non-shareholders publishers, unlike some other publishing companies for which there are still outstanding refunds.

d. An unjustified refusal to sell, which consists in the refusal to distribute the printed press by ARGOS, which lacked any objective supporting justification, in accordance with articles 2, paragraph 2(c), of Law 3959/2011 and 102 (c) TFEU.

I.2 An urgency to directly prevent an imminent threat of irreparable harm to the public interest is held to exist, in accordance with article 25 par. 5 of Law 3959/2011.

II.1 Ex officio interim measures against ARGOS must be ordered, which will stay in force until delivery of the final decision of the Commission on the main case, providing, in particular, that:

1. ARGOS shall proceed, within 10 (ten) days from notification of the operative part of this Decision, with a revocation of its new trading policy, regarding all publishing companies, in a prominent position on its website a notification, to notify it to all publishing companies and to provide evidence of the above to the Competition Commission.

2. ARGOS shall cease, from the date of notification of the operative part of this Decision, the unjustified refusal to sell in the context of publishing companies' printed press distribution.

3. ARGOS shall cease to apply a discriminatory treatment in relation to the refund policy on deductions of contributions to the publishing undertakings, returning immediately, from the notification of the operative part of this Decision, on equal terms and no later than 31.12.2019, the total amount due so far from the insurance contributions withheld, to all publishing undertakings.

II.2 ARGOS shall enter into negotiations with all publishers, either through Athens Daily Newspaper Publishers Association ("ADNA") or with individual publishing companies, on its new trading policy, taking into account the specificities of printed press distribution market, ARGOS's new pricing policy, both on the supply price and on any other charges, whether additional or not, of its new trading policy, the "wide-ranging handling" system, the monitoring and returns tariffication system and the other conditions (clause 5) of ARGOS's new commercial policy, the report on the new commercial policy of ARGOS drawn up by the expert or experts appointed by the Competition Commission, as set out below in the III .1, and the public interest consisting in ensuring the sustainability of both ARGOS and the publishing companies. During these negotiations, minutes shall be kept, which, after the conclusion thereof, shall be presented by ARGOS to the Commission. These negotiations must be concluded within a period of one (1) month from the notification of the expert's or experts' report to the parties.

II.3 Distribute the printed press from all publishing companies according to its current commercial policy, until the issuing of a final decision on the main case or the successful outcome of the above negotiations between ARGOS and the publishing companies.

II.4 In the event of failure to comply with all the above, the Competition Commission threatens ARGOS with a fine of five thousand Euros (€ 5,000) per day of infringement, to be imposed by a Decision confirming non-compliance.

III.1 In accordance with Article 20 (2) of the Commission's Rules of Procedure and Management, ARGOS shall appoint an expert or experts to diagnose, in accordance with the International Standards on Auditing:

- a) the current financial situation and/or viability of ARGOS,
- b) the causes which have led to the current financial situation of ARGOS, following an analysis (long-term and/or mid-term) of the company's finances,
- c) whether the new pricing policy of ARGOS, as mentioned in II.2 above, taking into account the financial data of the controlled company, as well as the administration and distribution costs and the way of their allocation to the publishing companies, regarding the services provided to them is "reasonable" and ensures ARGOS' viability,
- d) If there are alternative proposals for commission pricing and other charges of ARGOS's new trading policy, which are "reasonable" and ensure its viability.

III.2 The expert or experts appointed by the Commission shall be required to deliver their report within twenty (20) days of the notification to him/them of his/their appointment.