

Subject: Market Investigation in the Construction Sector pursuant to Article 11 Law 3959/2011 – First Interim Report and Launch of Public Consultation

On January, 8th 2021, the Hellenic Competition Commission (“HCC”) has decided ex officio to launch a market investigation in the construction sector pursuant to Article 11 Law 3959/2011. [See here for more.](#)

On April, 7th 2021, the HCC has issued its first interim report with respect to the conditions of competition in this sector and launched a public consultation inviting interested parties to comment.

According to the interim report, in the construction sector and in particular in the market for public works, there is a lack of effective competition, which cannot be remedied with the application of Articles 1,2 and 5-10 Law 3959/2011.

The interim report focused on the market structure of the sector and proceeded to the application of the theory of (horizontal) common ownership. In particular, it was found that the joint horizontal participation of a specific fund in the two largest construction undertakings in Greece may lead to unilateral and coordinated effects. Moreover there has been a significant concentration of the construction industry in the last decade with increasing barriers to entry in some of its sub markets. Also using quantitative estimates on the effective number of firms and a dataset of large public works tenders, the HCC examined the impact of eliminating common ownership, as measured by the number of discounts/offers, submitted in the context of each tender, was substantiated.

Other potential issues to competition were identified in the existing legal framework, taking into account the concerns expressed by companies in the industry and the preliminary investigation of HCC, such as: regulating abnormally low offers, allowing a construction joint venture after the selection of the bidder, changes in contract award criteria, the classification criteria of the Register of Contractors of Public Works (MH.EE.Δ.E), joint bidding and the more intensive and the wider use of Public Private Partnerships and concessions and prior analysis of their impact on competition.

The HCC’s team worked closely with a group of external experts, under the leadership of widely acknowledged for his contribution in the common ownership literature professor [Jose Azar](#).

The interim report is available [here \(in Greek\)](#).

The public consultation lasts from 08-4-2021 until 07-5-2021. Interested parties are invited to submit their comments (in editable format) to competition@epant.gr until 07-5-2021.

Following this consultation phase, and in case the competition related problems are confirmed, the HCC will issue a second report with its suggestions for remedies.

Please note that any submission beyond this deadline will not be accepted.

For more details on the market investigation in the construction sector according to article 11 Law 3959/2011 [read here](#).