



**HELLENIC REPUBLIC  
HELLENIC COMPETITION COMMISSION**

**Athens, 2 July 2021**

**PRESS RELEASE**

**Subject: HCC Decision no. 730/2021 in relation to infringements of Articles 1 and 2 of Law 3959/2011 and Articles 101 and 102 TFEU in the Greek market for general purpose gas appliances by DIMKA SA (currently RESOUL), following a complaint by STAMATOULIS SA as well as an *ex officio* investigation of the HCC's General Directorate for Competition**

**1. Executive Summary**

HCC decision no. 730/2021 in relation to infringements of Articles 1 and 2 of Greek Law 3959/2011 and Articles 101 and 102 TFEU in the Greek wholesale market for general purpose gas appliances by "RESOUL S.A.", following a complaint by one of its (former) distributors as well as an *ex officio* investigation initiated by the Directorate General for Competition ("DGC") of the Hellenic Competition Commission ("HCC").

The case concerns vertical agreements concluded between RESOUL S.A. and its wholesalers/distributors during the period 2008-2012 containing the following anti-competitive restraints: resale price maintenance, restriction of passive (and active, for a certain period) sales, and non-compete obligation clauses, as well as containing terms (exclusivity obligations and target rebates) that comprise an abuse of RESOUL's dominant position in the Greek wholesale market for general purpose gas appliances. In addition, RESOUL abused its dominant position in the above-mentioned market for the period 2005-2019 by offering to the super market chains' distribution channel target rebates.

**2. Procedure**

On 09 July 2013 a complaint against RESOUL was submitted by one of its former distributors pertaining to the infringement of Articles 1 & 2 of Greek Law 3959/2011, as well as Articles 101 & 102 TFEU, regarding the wholesale distribution by RESOUL of general purpose gas appliances.

Following the above-mentioned complaint, the DGC initiated an *ex officio* investigation in the Greek wholesale market for general purpose gas appliances and sent several information requests to RESOUL's major distributors and super market chains, as well as to its competitors. An SO was addressed to RESOUL in November 2020. The Board of HCC convened on 22 December 2020 to hear the case (full hearing before the Grand Chamber). RESOUL also offered commitments, which were rejected by the HCC.

**3. Facts**

RESOUL has consistently and for a long period – over a decade – held very large market shares, i.e. exceeding 70%, in the Greek wholesale market for general purpose gas appliances, while its

products are “must have items” largely preferred by final consumers. RESOUL distributes its products to the final consumers almost exclusively through super markets, which buy RESOUL’s products either directly from RESOUL or via RESOUL’s wholesalers/distributors. RESOUL has annual agreements with a number of wholesalers/distributors, to which specific territories within Greece are allocated (or exclusively allocated particularly for the period 2010 – 2012), while it also has annual agreements with super markets covering the entire of the Greek territory. RESOUL’s agreements with its distributors contained, from 2008 to 2012, restraints as regards resale prices, the territories within which the distributors were allowed to resell RESOUL’s products and their ability to distribute competing brands, as well as individualized target rebates. The aforementioned terms were all removed from the relevant agreements in 2013. Most of RESOUL’s agreements with supermarkets, from 2005 to 2019, contained clauses pertaining to a rebate scheme including individualized and retroactive target rebates based on each supermarket’s purchases in RESOUL’s products during the previous year.

#### **4. Legal Assessment**

According to the HCC decision, RESOUL has infringed Articles 1 of Greek Law 3959/2011 and 101 TFEU during the period 2008-2012, by imposing upon its wholesalers/distributors anticompetitive vertical restraints, namely retail price maintenance, restriction of passive sales (as well as active sales, particularly for the period 2008-2009), and single branding obligations. In addition, according to the HCC decision, RESOUL holds a dominant position in the Greek wholesale market for general purpose gas appliances and has abused said dominant position during the period 2008-2012, by imposing exclusivity obligations upon its distributors. These contractual terms, in conjunction with the offering of target rebates, aimed at maintaining and/or strengthening its dominant position in the relevant market, thereby excluding competitors and limiting their growth possibilities, in breach of Articles 2 of Greek Law 3959/2011 and 102 TFEU. Finally, according to the HCC decision, RESOUL has abused its dominant position in the Greek wholesale market for general purpose gas appliances during the period 2005-2019, by offering to the supermarkets loyalty inducing rebates based on individualized targets. Said rebates were granted retroactively to all purchases and not only to those purchases in excess of the target and aimed at maintaining and/or strengthening RESOUL’s dominant position in the relevant market, thereby excluding competitors and limiting their growth possibilities, in breach of Articles 2 of Greek Law 3959/2011 and 102 TFEU.

#### **5. HCC Decision and Sanctions**

The HCC imposed a fine of **EUR 1.100.547,11** upon RESOUL for the infringements of Articles 1 and 2 of Greek Law 3959/2011 and 101 and 102 TFEU described above. The following factors have been taken into account and led to the reduction of the fine that would have otherwise been imposed: (a) the prolonged financial crisis, which has also affected the sector concerned (reduction by 30% of the fine); and (b) RESOUL’s cooperation with the HCC beyond its legal obligation to do so during the administrative process (a further reduction by 25% of the fine).

The HCC also required that RESOUL omits similar practices in the future. Finally, the HCC threatened a fine against RESOUL, in case the HCC decides in the future that the above-mentioned established infringements continue or are repeated.