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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN GREECE

-- 2014 --

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EXECUTIVE SUMMARY

1. In the context of the ongoing economic crisis, the HCC realigned its strategic planning along the following four pillars, thereby underlines its resolve to safeguard conditions of effective competition and to foster a genuine ‘competition culture’ in Greece:

- Maintaining a consistent level of core enforcement action (antitrust investigations and merger control work) compared to previous years, taking into account the economic downturn and the inherent challenges in pursuing a diversified agenda;
- Placing renewed emphasis on market monitoring actions, notably by making more use of sector inquiries, while further increasing cooperation with other stakeholders;
- Expanding considerably the Authority’s advocacy efforts in order to promote competition assessment of laws and regulations; and
- Making better use of internal management tools for prioritizing the investigation of cases, with a view to increasing the systemic effect of its action.

2. Following a peak in advocacy initiatives aimed at lifting regulatory restrictions in product and services markets during the course of 2011-2013 (as prompted by Greece’s Economic Adjustment Programme), the HCC re-committed resources to core enforcement actions in 2014. The Authority sought to strengthen and further diversify its enforcement record, while maintaining a broad advocacy agenda.

3. A number of pending investigations were successfully completed, with several statements of objections having been issued in high-profile cases. In addition, the Authority adopted infringement decisions in both Article 101 and 102 TFEU cases and imposed considerable fines totaling EUR 15.5 million in 2014 (EUR 45.4 million in 2013), notwithstanding the financial constraints.

4. Collusive practices notably in the context of trade associations, as well as abuse of dominance cases, continued to be at the centre of the Commission’s attention during 2014. The Authority pursued investigations in the area of telecoms retailing, baby diapers, the distribution of pharmaceuticals and tobacco products, gas supply, the production and distribution of detergents and cosmetics, fuel trading, production of steel, as well as media measurement services. Furthermore, the HCC continued to review complex mergers of strategic nature, notably in the banking and retail sectors, which traditionally give rise to more competition concerns and thus prompt a more intense competition analysis (and ensuing remedial action).

5. As an aside, administrative courts (i.e. the Athens Administrative Court of Appeals and the Supreme Administrative Court) upheld the vast majority of HCC decisions reviewed in the course of 2014, albeit some reductions in total fines.

6. Moreover, the HCC continued to expand its consultative functions, as a result of the severe economic downturn and the sustained role of the HCC in promoting competition assessment of potentially distortive laws and regulations. The HCC’s advocacy efforts in that respect have been reviewed most positively by the European Commission and other international organizations. In the area of liberal professions, it is estimated that around 75% of nearly 350 regulated professions had been opened up to competition, in line with the HCC recommendations (OECD Economic Survey for Greece, November 2013). In addition, the HCC’s partnership with the OECD on the so-called Greece’s Competition Assessment Projects is a further testament to the Authority’s capabilities and commitment in strengthening its advocacy

role. During the 1st such project, the expert team reviewed more than 1,000 pieces of legislation, ultimately identifying 555 problematic regulations and making more than 320 recommendations on legal provisions that should be amended or repealed in 4 sectors of the economy. In the 2nd project, which was concluded in December 2014, the team of experts reviewed 482 pieces of legislation, identified 154 potential restrictions and made 88 recommendations for change in 4 additional sectors of the economy. Overall, in recognition of its sustained advocacy efforts in the area of competition assessment, the HCC has also been awarded an Honorable Mention at this year's World Bank – ICN Competition Advocacy Contest (under category II: promoting awareness of competition benefits in a time of crisis).

7. On the institutional front, much time and effort was invested in the adoption of the EU Directive on antitrust damages actions (Directive 2014/104/EU) in the context of Greece's Presidency of the EU (1st semester 2014), in cooperation with the Greek EU Permanent Representation and the Ministry of Economy, Development & Competitiveness. In particular, the HCC co-chaired the EU Council's negotiating team that successfully completed all technical and formal trilogue negotiations with the Parliament and the European Commission, leading to the enactment of the Directive.

8. Finally, the HCC took steps to further enhance its priority-setting and case management internal procedures. It adopted Decision No. 588/2014 which defines the terms, conditions and the procedure for the acceptance of commitments proposed by undertakings to cease investigations for suspected infringements of articles 1 and 2 of L. 3959/2011 or 101 and 102 TFEU. The adoption of this streamlined procedure already led to an increase of commitment proposals in pending investigations, thereby enhancing the efficient allocation of the Authority's resources. During the course of 2014, the HCC also continued to implement an internal prioritization system in the form of a "point-system", by investigating pending cases (notably complaints) according to their ranking on a scale of 1 to 10. Although the implementation of this system is still ongoing and rejection decisions on priority grounds have not yet been tested in administrative courts, preliminary data are positive and indicate a reduction of at least 25% in the number of backlogged cases (as compared with 2011-2012).

2014 Highlights

Overview

- Following a peak in advocacy initiatives aimed at liberalizing professional product and services markets during the course of 2011-2013, the HCC re-committed resources to core enforcement actions.
- In the course of 2014, a number of pending investigations were successfully completed, with several statements of objections having been issued in high-profile cases (likely to mark the year to come). In addition, the Authority adopted infringement decisions in both Article 101 and 102 TFEU cases and imposed considerable fines totaling EUR 15.5 million (EUR 45.4 million in 2013).

Enforcement (antitrust & mergers)

- Key decisions and interventions in 2014 included the following:
 - Infringement decision with fines against telecoms retailer GERMANOS, a subsidiary of telecoms incumbent OTE, for resale price maintenance and restricting cross-supplies between franchisees within its selective distribution system.
 - Infringement decision with fines against PROCTER & GAMBLE for abuse of dominance in the market for baby diapers.

- Infringement decision against the Association of Dental Technicians of Crete for adopting decisions aimed at the direct or indirect fixing of minimum fees of its members.
- Commitment decision made binding upon DEPA, the incumbent gas supplier in Greece, for the revision of specific terms of the system for the supply of natural gas through electronic auctions (upon consultation with the Regulatory Authority for Energy).
- Statement of objections addressed to COLGATE-PALMOLIVE, as well as to certain wholesalers and supermarket chains, concerning the restriction of parallel trade in the markets for detergents and cosmetics.
- Statement of objections addressed to GLAXOSMITHKLINE for abuse of dominance regarding certain medicinal products (following a referral of the case from the Administrative Court of Appeals back to the Authority in light of the Court of Justice's judgment in Joined Cases C-468/06 to C-478/06 Sot. Lelos kai Sia EE and Others).
- Statement of objections addressed to steel producers SIDENOR, HELLENIC HALYVOURGIA and HALYVOURGIKI for engaging in anti-competitive exchange of information through their trade association.
- Statement of objections addressed to undertakings active in the market of media measurement services regarding market sharing and non-compete arrangements.
- Report issued for the acceptance of commitments proposed by tobacco manufacturers (incl. Greek subsidiaries of BRITISH AMERICAN TOBACCO, IMPERIAL TOBACCO etc.) with regard to their distribution contracts (following the Authority's preliminary assessment raising competition concerns).
- Report issued for the acceptance of commitments proposed by fuel trading companies (incl. EKO, AVIN OIL, CORAL, CYCLON, ELINOIL HELLENIC PETROLEUM, AEGEAN OIL etc.) with regard to long-term exclusive cooperation agreements concluded with independent petrol-station operators (following the Authority's preliminary assessment raising competition concerns).
- In-depth investigation (Phase II review) of 6 notified mergers & acquisitions. 1 notified acquisition involving Greece's leading dairy producers was resolved with structural (divestment) and behavioral remedies.

Advocacy

- The HCC continued to review laws and regulations affecting regulated professions and it issued a large number of formal opinions aimed at identifying and removing regulatory obstacles as regards the access and exercise of a number of professional services. Overall, it is estimated that around 75% of nearly 350 regulated professions had been opened to competition by the beginning of last year, in line with the HCC's recommendations. For its work in promoting awareness of competition benefits in a time of crisis, the HCC has been awarded an Honorable Mention in the last ICN-WBG Competition Advocacy contest.
- The Second Joint OECD – HCC Competition Assessment Project was successfully completed in December 2014 following a 5-month in-depth review of legislation to identify potential regulatory obstacles to competition in 4 designated sectors of the economy: (a) manufacture of coke and refined petroleum products; (b) manufacture of textiles, wearing apparel, leather and related products; (c) manufacture of beverages and (d) manufacture of machinery and equipment. The project reviewed 482 pieces of legislation, identified 154 potential restrictions and made 88 recommendations for change.
- The HCC issued a new opinion in the area of liberal professions promoting competition in professional services of civil engineers, architects and topographers.
- The HCC acted as chair of a legislative committee assigned with the task of drawing up Presidential Decrees regarding the criteria for access to, and exercise of, the profession of engineers.

- The HCC published a new “Guide for Public Procurement Authorities: Detection and Prevention of Collusive Practices in Procurement Tenders” aimed at enhancing the awareness of public officials with regard to bid-rigging practices.
- The HCC co-organised and participated in 2 competition trainings of public procurement officials on bid-rigging detection and prevention (partly in cooperation with the OECD).
- The HCC contributed to the market studies undertaken by the Ministry of Economy/Secretariat-General of Commerce in the areas of wholesale trade and e-commerce

Other Activities

- In the course of the Greek Presidency of the EU (1st semester 2014), the HCC co-chaired the Council's negotiating team for the adoption of the new EU Directive on antitrust damages actions (Directive 2014/104/EU). The team successfully completed all technical and formal trilogue negotiations with the Parliament and the European Commission, which led to the enactment of the Directive.
- In the course of the Greek Presidency of the EU Council, the HCC hosted the European Competition Day in 10-11 April 2014, in Athens.

1. Changes to Competition Laws and Policies

9. No changes have been made to the organization and structure of the HCC during the pertinent period.

10. Furthermore, there have been no amendments to Law 3959/2011 (the Greek Competition Act) in 2014. However, based on specific delegation provisions of the Competition Act, the HCC continued its secondary legislation and soft law initiatives.

1.1 New guidelines for accepting commitments

11. On April 16th 2014, the HCC adopted Decision No. 588/2014 defining the terms, conditions and procedure for the acceptance of commitments offered by undertakings to cease possible infringements of articles 1 and 2 of L. 3959/2011 or 101 and 102 TFEU. The Decision optimizes the current administrative practice, focusing on accelerating the procedure and making it more efficient. It also ensures that the most appropriate sanction is chosen in terms of public interest and competition policy by determining the cases where commitments are appropriate, based on the nature of the infringement, the characteristics of the market and the anticipated benefit, whilst considering the suppressive and deterrent effect of imposing fines, and adopts criteria for the commencement of the procedure of evaluating and accepting, or not accepting, the proposed commitments. Further, the Decision introduces a procedure of consultation on the proposed commitments, aiming to address the competition concerns in full and in the most efficient way. Finally, the Decision offers guidelines to undertakings on the procedure that will be followed, the relevant time frames, as well as the terms and conditions for accepting commitments.

12. The Decision clarifies that the HCC enjoys wide discretionary power to decide on the commencement of the procedure for evaluating and accepting, or not accepting, commitments proposed by the interested undertakings. Commitments are appropriate in cases where the competition concerns (a) are readily identifiable (b) are fully addressed by the commitments offered and no new concerns emerge and (c) may be efficiently resolved and within a short period of time. Moreover, commitments are appropriate where they contribute to saving resources of the HCC and improving the efficiency of the procedure and undertakings are encouraged to signal their interest in discussing commitments as early as possible. It is also clear that the HCC will not accept commitments in cases involving serious restrictions of competition and/or serious abuses of dominance, nor in horizontal agreements falling within the leniency program.

Interested undertakings may propose commitments at any time during the course of an investigation of a case by the HCC. However the HCC does not consider commitments appropriate when the undertakings involved have already received a Statement of Objections.

13. Briefly, the procedure for accepting commitments may be initiated with preliminary meetings with the Directorate General and/or the HCC Rapporteur, followed by an evaluation of the criteria for commencement of the procedure and invitation to interested undertakings to submit their final proposal, a market consultation on the commitments, notification of the Statement of Objections on the acceptance of the final proposal of commitments and hearing of interested undertakings and complainant before the HCC. The procedure ends with the Decision of the HCC rendering the commitments binding.

1.2 Bilateral cooperation agreement with the Cypriot¹ Competition Authority

14. On 30 October 2014, the HCC and the [Cypriot](#) Commission for the Protection of Competition signed a Memorandum of Cooperation whereby they committed to enhance their existing cooperation within the European Competition Network to enforce national and EU competition rules. In the Memorandum, the two Authorities agree to exchange experience and knowledge in the field of competition and to share expertise through seminars, exchange programmes and study visits. The Memorandum also lays down key principles for exchanging information regarding activities of businesses/undertakings in each geographical territory.

2. Enforcement of Competition Laws and Policies

15. Collusive practices, notably in the context of trade associations, as well as abuse of dominance cases continued to be at the centre of the Commission's attention in the course of 2014. The Authority pursued investigations in the area of telecoms retailing, baby diapers, the distribution of pharmaceuticals and tobacco products, gas supply, the production and distribution of detergents and cosmetics, fuel trading, production of steel, as well as media measurement services.

16. For an overview of the HCC's enforcement record in the course of 2014, see executive summary above. A summary of the key investigations is provided below.

2.1 Anticompetitive Practices (antitrust)

2.1.1 Summary of Activities regarding Anticompetitive Practices

17. In the area of antitrust, the HCC issued sixteen (16) decisions applying Articles 101 TFEU (1 of Greek Competition Act) and 102 TFEU (2 of the Greek Competition Act), i.e. regarding potentially anti-competitive agreements, concerted practices, decisions of associations, as well as abuse of dominance. Moreover, the Authority also issued a number of statements of objections, thereby concluding its investigations in several high-profile cases.

¹ "Footnote by Turkey:

The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Footnote by all the European Union Member States of the OECD and the European Union:

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus."

18. The Authority conducted thirty two (32) dawn raids in total for the investigation of eleven (11) pending cases.

2.1.2 Description of Significant Antitrust Decisions

2.1.2.1 GERMANOS – telecoms retailing

19. The said decision concerned practices employed by franchisor GERMANOS, the telecoms retail arm of COSMOTE, in the market of retail sale of telecommunication devices and accessories, IT products, digital products, batteries and various technology products. By virtue of the decision, the HCC fined GERMANOS a total amount of EUR 10.251.548 for infringing Articles 101 TFEU and 1 of the Greek Competition Act, by engaging in resale price maintenance and restricting cross-supplies between distributors/franchisees within its selective distribution system.

20. According to the decision, specific terms of GERMANOS' franchise agreements signed with the majority of the franchisees throughout a long period of time, which exceeded 20 years (1990-2012), amounted to (a) a direct and/or indirect determination of its franchisees' resale prices and (b) a restriction of sales to other franchisees within the network and/or to other authorized distributors of GERMANOS – both vertical restrictions that constitute serious infringements of competition law (and restrictions by object within the meaning of EU and national competition rules).

21. The HCC further concluded that the resale price restrictions were partly implemented in practice, particularly in view of the fact that the margin of the franchisees was fixed for the longest part of the time period under review. However, the HCC considered that a joint software system (used by all the franchisees and accessible to GERMANOS through an on-line connection) could not properly be deemed to facilitate price rigidity, thereby distinguishing the case at hand from the Carrefour precedent (Decision No. 495/VI/2010). In particular, the HCC concluded that, in the specific circumstances of this case, the said allegation could not be substantiated to the requisite legal standard, notwithstanding the fact that the software online system at hand borne several technical similarities to the Carrefour system previously condemned by the Authority. Restrictions of cross-supplies were also, at least partially, applied in practice, thereby resulting to a restriction of intra-brand competition.

2.1.2.2 PROCTER & GAMBLE – baby diapers

22. Following an ex officio investigation, the HCC concluded, by majority vote, that Procter & Gamble (P&G) has infringed Articles 101 and 102 TFEU, as well as Articles 1 and 2 of the Greek Competition Act, by engaging in anticompetitive commercial practices in the retail market for baby diapers in Greece.

23. According to the decision, the evidence gathered throughout the investigation (incl. contractual agreements of P&G with super markets, interviews, scorecards followed by the super markets, shelf plan-o-grams, instructions to merchandisers & other internal docs and emails) substantiated that, during the investigated period from 2003 to 2011, P&G had adopted and implemented anticompetitive practices aimed at maintaining and/or strengthening its dominant position in the market for baby diapers, thereby excluding competitors and limiting their growth possibilities.

24. The alleged abusive conduct included, in particular, individualized target rebates and rebates conditional upon the commitment of excessive shelf space (percentage of shelf space and of available SKUs) for its baby diapers products, as agreed between P&G and major retail chains throughout the investigated period. The characteristics of the aforementioned rebates, as well as the way they were implemented, were analysed according to the criteria set out by case-law for exclusivity requirements. The rebates conditional upon the commitment of excessive shelf space were also analysed as non-compete

clauses and were found to constitute, in addition to abusive behavior, an infringement of Articles 101 TFEU and 1 of the Greek Competition Act concerning restrictive agreements.

25. Based on the gravity and duration of the infringement, and after taking into account the particularities and economic conditions of the case, the HCC imposed on P&G fines totaling EUR 5.3 million.

2.1.2.3 Association of Dental Technicians – provision of dental services

26. In this case, HCC found that the Association of Dental Technicians of Crete, active in the market of dental technician services in Crete, infringed competition rules, by adopting decisions aimed at the direct or indirect fixing of minimum fees for its members, notably through (a) the inclusion of specific provisions to that effect in its statutes of the association (period from 1988 to date) and (b) the adoption and notification to members of price lists with minimum fees (period from 2001 to 2010). According to the decision, these actions demonstrated a clear and consistent determination by the association to coordinate the pricing policies of its members, in violation of existing national provisions. The HCC imposed on the Association of Dental Technicians of Crete a symbolic fine and ordered, among other things, that it eliminate from its statutes the aforementioned anti-competitive clause, as well as that it inform in writing all dentists and dental technicians that fees are to be formulated independently by dental technicians

27. This case continued the long line of infringement decisions with fines against trade associations, which were pursued in the course of the last two years (see Annual Report on Competition Policy Developments in Greece – 2013).

2.1.2.4 DEPA commitments – natural gas supply

28. Following extensive consultation with customers of DEPA, the gas incumbent operator in Greece, and in collaboration with the Regulatory Authority for Energy, the HCC decided to revise and update its former commitments decision of 2012 (551/VII/2012), which included specific undertakings for (a) the unbundling of gas supply from gas transportation services, (b) the provision of a higher degree of customer mobility and the increase of liquidity in the market of natural gas, (c) the introduction of fair, transparent and non-discriminatory contractual terms in the gas supply contracts concluded by DEPA and (d) the gradual opening of reserved capacity by DEPA in Greece's natural gas transmission network.

29. The revised commitments decision focused on the specific terms and conditions for the supply of natural gas through electronic auctions, the purpose being to promote a more efficient functioning of electronic auctions (based on the experience accumulated thus far), to increase participation in the said auctions, as well as to optimize sources of natural gas supply for customers and wholesale suppliers.

2.1.3 *Description of Significant Antitrust Investigations Concluded*

2.1.3.1 COLGATE PALMOLIVE – detergents

30. This ex-officio investigation focuses on a suspected infringement of national and EU competition rules by the COLGATE - PALMOLIVE group of companies, as well as by companies active in the retail and wholesale trade of supermarket products, concerning the restriction of parallel trade.

31. According to the statement of objections, certain agreements signed by the said group of companies and a number of wholesalers/retailers contained contractual clauses having the object and effect of impeding parallel trade of detergents and cosmetics (essentially, restricting parallel imports of such COLGATE-PALMOLIVE products into Greece). This is the second statement of objections issued in this

case. The HCC had originally reviewed the issue back in 2009, but referred back the case to the Directorate-General for further investigation.

32. The HCC is not bound by the statement of objections and the decision is pending.

2.1.3.2 GLAXOSMITHKLINE – production and distribution of medicines

33. This case is re-examined by the HCC, following the judgments No. 2019/2009, 2100/2009 and 1983/2010 of the Athens Administrative Court of Appeals and judgments No. 1923/2012, 1922/2012, 1921/2012 and 1925/2012 of Greece's Supreme Administrative Court, all of which referred the case back to the HCC for a new ruling, in light of the Court of Justice's judgment in Joined Cases C-468/06 to C-478/06, *Sot. Lelos kai Sia EE and Others v. GLAXOSMITHKLINE* (a request for preliminary ruling was submitted by the Athens Administrative Court of Appeals in connection with this investigation).

34. According to the statement of objections, GSK abused its dominant position in the market of migraine medicines from 2000 to 2004 by refusing to meet 'ordinary' orders of wholesalers, thereby restricting parallel trade. By applying the criteria set out in the Court of Justice's judgment in Joined Cases C 468/06 to C 478/06, the statement of objections attempts to assess the 'ordinary' character of wholesalers' orders by reference to the annual size of orders and supplies per wholesaler, the national consumption per year and the pattern of previous business relations between GSK and wholesalers during the years prior to the infringement. However, the statement of objections finds that GSK did not enjoy a dominant position in relation to the treatment of respiratory diseases during 2000 – 2006 and thus no abusive conduct could be substantiated.

35. Finally, the statement of objections maintains that GSK did not comply with the interim measures imposed by HCC for the period during which decision 193/III/2001 remained in force and proposes the imposition of a fine for that infringement, as confirmed by the Athens Administrative Court of Appeals in one of its judgments.

36. The HCC is not bound by the (new) statement of objections and the decision is pending.

2.1.3.3 Production and distribution of steel products

37. This investigation concerns an alleged infringement of Articles 101, 102 TFEU and of Articles 1 and 2 of the Greek Competition Act, by undertakings and the association of undertakings active in the steel sector (notably manufacture and distribution of long steel products) in Greece. The HCC opened the investigation following press reports referring to simultaneous excessive price increases in steel products. The ex officio case was later joined with two complaints against industrial and trading companies active in the sector of steel products.

38. According to the statement of objections, steel producers Sidenor, Hellenic Halyvourgia and Halyvourgiki exchanged sensitive information regarding production and exports, as well as imports, via ENHE, the steelmakers' association whose members are the said steel industries, during a significant period of time, thereby infringing competition rules. However, the statement of objections that coordination on prices and the delay of imports could not be substantiated to the requisite legal standard.

39. The HCC is not bound by the statement of objections and the decision is pending.

2.1.3.4 Media measurement services

40. This ex officio investigation concerns an alleged infringement of Article 1 of the Greek Competition Act by «FOCUS BARI SA» and «MRB HELLAS SA», both companies active in the market of media measurement services.

41. According to the statement of objections, the implicated undertakings agreed to jointly submit bids in any future procurement proceedings regarding radio audience measurement (ratings) in the area of Attiki (joint bidding). Moreover, MRB in exchange for its participation along with FOCUS in radio ratings' procurements in Attiki agreed not to enter the market of radio ratings in Thessaloniki (market sharing).

42. The HCC is not bound by the statement of objections and the decision is pending.

2.1.3.5 Distribution of tobacco products

43. This investigation concerns the distribution networks operated by the leading producers of tobacco products in Greece, namely Papastratos Cigarette Manufacturing Company S.A. (Philip Morris International' affiliate in Greece), British American Tobacco Hellas S.A, Karelia Cigarette Manufacturing Company S.A, Athanasiou S.A. and Imperial Tobacco Hellas S.A, and focuses on potential vertical restraints in the new agreements agreed by those tobacco producers and their new distributors. The HCC initiated the investigation following complaints by former tobacco distributors and their trade associations, alleging that the above tobacco producers coordinated to alter their distribution networks simultaneously and refused illegally to supply them with products, as well as that the new distribution systems resulted to anti-competitive cumulative effects.

44. According to the preliminary report, it is proposed that the HCC accept the commitments offered by the above tobacco manufacturers to amend or delete specific contractual terms in their new distribution agreements, so as to meet the concerns expressed to them by the HCC. Furthermore, it is proposed that the HCC reject all remaining aspects of the complaints (e.g. allegations regarding abuse of dominance, concerted practices, resale price maintenance), as these alleged infringements could not be substantiated.

45. The HCC is not bound by the preliminary report and the decision is pending.

2.1.3.6 Long-term exclusive contracts between petrol-stations and fuel trading companies

46. This investigation focuses on the long-term exclusive cooperation agreements concluded between petrol-station operators and fuel trading companies. According to the preliminary assessment, several fuel wholesale companies, namely "HELLENIC FUELS S.A" (former BP Hellas), "EKO S.A.", "AVIN OIL S.A." "CORAL S.A." (former Shell Hellas), "CYCLON HELLAS S.A.", "ELINOIL HELLENIC PETROLEUM COMPANY S.A.", "AEGEAN OIL", "MAMIDOIL-JETOIL S.A" and "REVOIL S.A.", lease the land/premises on which the petrol station operates by the owner/operator or his/her relatives, and at the same time (or a couple of days later) sign a commercial cooperation agreement with the same petrol-station operator – either by the same private agreement or by another, distinct concession agreement granting the right to use the property – by which they sublease the land/premises to the same operator, for a duration exceeding five years (often with the possibility to convert them to open-ended agreements by tacit renewal). The above agreements might give rise to competition concerns, because they amount to a non-compete obligation of more than 5 years, thus excessively restricting the petrol-station operator's contractual freedom to choose his/her fuel supplier. It is thus proposed that the HCC accept the commitments offered by the above fuel trading companies to amend or delete specific contractual terms in their cooperation agreements with petrol stations.

47. The HCC is not bound by the preliminary report and the decision is pending.

2.2 Merger Enforcement

2.2.1 Statistics on Notified Mergers

48. In 2014 the HCC received 16 merger filings pursuant to Article 6 of the Greek Competition Act, of which six (6) led to an in-depth review (phase II merger investigations). However, only one (1) of those cases was challenged and ultimately resolved with structural and behavioral remedies. All other merger filings were unconditionally cleared.

49. The filings mostly concerned the banking, retail, dairy and energy sectors, as well as the markets for the provision of insurance services, prepaid cards and digital satellite platforms.

2.2.2 Description of Significant Merger Cases

2.2.2.1 Restructuring of the banking sector

50. The Authority continued the review of merger and acquisitions in the banking sector, in the context of the ongoing consolidation of the industry. Two (2) of those concentrations involved Greece's systemic banks. Since 2012, the HCC has reviewed more than fourteen (14) parallel banking mergers and acquisitions. The Greek banking sector underwent a swift restructuring process, as a result of the severe economic downturn and the ensuing need for recapitalization.

2.2.2.2 Consolidation in the retail sector

51. For similar reasons pertaining to the economic crisis, a wave of merger and acquisitions in the retail sector has also emerged, involving several super market chains. The investigation of most of these cases, which often entails a detailed competition assessment at the level of local markets, has been initiated in 2014 (decisions to be issued in the course of 2015).

2.2.2.3 DELTA – MEVGAL merger in the dairy sector

52. The HCC challenged, under Greek merger control rules, the notified concentration between MEVGAL and DELTA, both companies active in a range of dairy product markets, whereby the latter acquired control over the former. The HCC's in-depth (phase II) investigation indicated that the proposed transaction, as originally notified, could have raised competition concerns notably in the Greek market for chocolate milk, and to lesser degree, in the market for the procurement of raw milk. The notifying party offered commitments to remedy the HCC's concerns. Ultimately, the HCC approved the notified concentration, subject to the following conditions and obligations:

- The merged entity shall divest the chocolate milk business currently operated under the brand name "Topino", in order to remove the horizontal overlap between the parties. To ensure the viability and competitiveness of the divested business activity. Delta further commits to provide potential buyers with access to its distribution network and production, at their own choice, for a transitional period of two (2) years following completion of the brand divestiture. A trustee will be appointed to ensure compliance with the divestiture commitment.
- The merged entity shall continue to procure raw milk, under current volumes and general trading terms, from producers located in two (2) prefectures of Northern Greece (Imathia and Pella) for a transitional period of two (2) years, at the producers' absolute choice and freedom.

2.3 *Court Judgments*

53. The Athens Administrative Court of Appeals (AACA), which reviews all HCC's decisions on the merits, issued sixteen (16) final judgments in 2014, while nineteen (19) appeals were filed against decisions of the HCC. Out of those decisions:

- 13 were upheld on appeal (in 9 of those the Court confirmed the HCC's findings on substance, but adjusted the fine imposed);
- 3 decisions were annulled (in 2 of those the Court referred back the case to HCC).

54. As an aside, the HCC prevailed in all twenty-seven (27) proceedings before the Supreme Administrative Court (Conseil d'Etat), mostly comprising challenges on legal grounds initiated by the parties against former court of appeals judgments upholding the HCC's decisions. Opposing parties prevailed in only one (1) case against the HCC (the case concerned the interpretation of merger control thresholds under the former Competition Act).

3. *Advocacy – Other Initiatives*

55. In recent years, the HCC has taken steps to diversify and expand considerably its advocacy efforts and overall outreach activities, both as a result of the ongoing financial crisis and the sustained role of the HCC in promoting competition assessment in Greece. For this purpose, a variety of instruments have been used by the Authority, including (a) formal opinions—recommendations for legislative change addressed to the government (upon request by the competent line ministries or at its own initiative); (b) targeted screening and regulatory impact assessment initiatives, notably in cooperation with the OECD; and (c) publication of compliance and awareness guides.

56. A summary of key advocacy initiatives is presented below.

3.1 *Professional services (liberal professions)*

57. During the last 3 years, the HCC's task force on liberal professions reviewed laws and regulations affecting a number of regulated professions, ultimately issuing more than 25 formal opinions aimed at identifying and removing regulatory obstacles as regards the access and exercise of a number of professional services.

58. According to the latest OECD Economic Survey for Greece (November 2013), it is estimated that around 75% of nearly 350 regulated professions had been opened to competition, in line with the HCC recommendations (opinions issued by the HCC in the context of its enhanced advocacy role).

59. In the same context, the HCC issued Opinion No. 34/2014, following a formal request from the Greek Government, on a draft legislation amending the current national legal framework on professional rights of engineers. To this end, the HCC underlined the need for a general revision of the legal framework for engineers' professional activities and its consolidation into one piece of legislation, as well as the need to remove, uniformly and systematically, the existing contradictions and ambiguities for all engineering projects, public or private. The HCC proposed that the new legal framework: (a) describes the shared and, where necessary and proportionate in the light of overriding public interest, the exclusive professional activities of engineers with different specialties, and (b) identifies objective criteria for access to and exercise of those professional activities, based on the engineers' expertise, aptitudes and experience, without reference solely to specific academic titles. The HCC also proposed integrating the current different registries relating to construction activities based on objective criteria. Finally, the new legal

framework could be supplemented by rules of professional conduct and responsibility, which would enable development and adoption of self-regulatory rules. As immediate measures, the HCC recommended that the government amend the current legislation on civil engineers, architects and topographers so that access to specific professional activities is determined by objective criteria of expertise and experience, and not merely by reference to academic titles granted by specific institutions. In addition, the HCC suggested amending specific provisions of the draft laws to ensure equivalence of professional rights among graduates of universities, whether national or foreign, that award engineer diplomas corresponding to the above professional activities.

60. Following this Opinion, the HCC acted as chair of a legislative committee assigned with the task of drawing to draw up Presidential Decrees regarding the criteria for access to, and exercise of, the profession of engineers.

3.2 *OECD Competition Assessment Project*

3.2.1 *1st Competition Assessment Project*

61. As reported in last year's annual report, the 1st Competition Assessment Project was completed in late 2013. Using the methodology set out in the OECD's Competition Toolkit, a core team of OECD and HCC competition experts under the direction of the OECD, and in cooperation with staff by the competent line Ministries by sector, reviewed more than 1,000 pieces of legislation, ultimately identifying 555 problematic regulations and making more than 320 recommendations on legal provisions that should be amended or repealed in 4 sectors Greek economy: food processing, retail trade, building materials and tourism. Several of these recommendations were adopted and enacted into law in the course of 2014.

3.2.2 *2nd Competition Assessment Project*

62. The second phase of the project was successfully completed in December 2014, following a 5-month in-depth review of legislation to identify potential regulatory obstacles to competition in 4 additional sectors of the economy: manufacture of coke and refined petroleum products; manufacture of textiles, wearing apparel, leather and related products; manufacture of beverages and manufacture of machinery and equipment. The team of experts reviewed 482 pieces of legislation, identified 154 potential restrictions and made 88 recommendations for change. The publication of the report is pending.

63. The HCC's partnership with the OECD on both these projects is a testament to the authority's capabilities and commitment in further strengthening its advocacy role.

3.3 *Other initiatives and outreach activities*

64. In addition to the advocacy projects outlined above, the HCC undertook several outreach activities with a view to promoting competition awareness. In particular:

- The HCC participated in two (2) projects undertaken by the Ministry of Development and Competitiveness / General Secretariat of Commerce regarding (a) a market study focusing on barriers to entry in the wholesale sector, (b) a market study focusing on barriers to entry in e-commerce (both completed in December 2014), and (c) the preparation of a Code of Conduct for rebates, offers, promotional actions and stock management (the committee set up for this purpose submitted its final proposal in September 2014 and a Ministerial Decision by the Minister of Development and Competitiveness was issued in November 2014)

- The HCC published a new “*Guide for Public Procurement Authorities: Detection and Prevention of Collusive Practices in Procurement Tenders*” aimed at enhancing the awareness of public officials with regard to bid-rigging practices.
- The HCC co-organised and participated in two (2) competition trainings of public procurement officials on bid-rigging detection and prevention (partly in cooperation with the OECD).
- The HCC co-organised part of the 15th Conference on Applied Industrial Organization by the Centre for Economic Policy Research and the Journal of Industrial Economics, which took place in Athens (22-24 May 2014).
- The HCC hosted the Chief Economists Working Group of the European Competition Network in Athens (14 October 2014).
- The HCC participated in a conference organised by the Cypriot² Competition Authority and the Cyprus³ Chamber of Commerce and Industry, with the support of the Enterprise Europe Network, on the importance of competition in times of economic crisis, which took place in Nicosia (31 October 2014).
- Finally, the HCC co-organised with the Chambre de Commerce et d’Industrie Franco-Hellénique a conference on the role and functions of the competition authority in Athens (13 October 2014).

3.4 *EU Directive on damage actions*

65. On the institutional front, much time and effort was invested in the adoption of the EU Directive on antitrust damages actions (Directive 2014/104/EU) in the context of Greece’s Presidency of the EU Council (1st semester 2014). The HCC co-chaired the Council’s negotiating team that successfully completed all technical and formal trilogue negotiations with the Parliament and the European Commission, leading to the enactment of the Directive.

²

"Footnote by Turkey:

The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Footnote by all the European Union Member States of the OECD and the European Union:

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus."

³

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66. The HCC published and circulated a new brochure regarding the scope, key provisions and perceived benefits of the EU Directive on antitrust damages actions (Directive 2014/104/EU).

3.5 *European Competition Day – Athens, 10 and 11 April 2014*

67. Under the aegis of Greece's Presidency of the EU Council, the HCC organised the European Competition Day, a two-day international conference on competition and state aid law and practice, in Athens (10 and 11 April 2014).

68. The event is a forum for the exchange of views on EU competition law and policy and the promotion of competition culture. It takes place in the context of EU's rotating Presidency and is organised customarily by each respective EU National Competition Authority. Participants include officials from the European Commission, the 28 National Competition Authorities, international organizations, judges, representatives of consumer and professional associations, members of the academic community, as well as competition law and state aid practitioners.

69. The first day of the event focused on core competition enforcement and policy issues. The key themes to be discussed pertained to novel issues in the retail sector and the likely scope of ensuing enforcement action, selected topics pertaining to judicial review and the interplay between procedural guarantees and the effectiveness of enforcement, as well as the use of economic tools to detect and assess collusive conduct. The second day of the event, co-hosted by the Greek Ministry of Finance, focused on developments in the field of state aid. The discussion touched upon the effective use of state aid as a tool to foster economic growth, the modernization process of state aid rules and techniques and the interaction between state aid policy and the privatization process of SOEs.

4.3 *HCC Resources & Administration*

4.1 *Digitalization of services*

70. The HCC is in the process of digitalizing its services, including case management and other internal procedures. By implementing this project, the HCC aims to provide enhanced digital services to citizens and enterprises, thereby reducing costs, burdensome procedures and bureaucracy as a whole. The new technologies infrastructure will further contribute to the upgrade and streamlining of all HCC's databases, while rendering case management more effective. The project, which is financed by EU funds, will be completed by the end of year 2015 and HCC plans to organise training seminars and presentations for undertakings and any other interested bodies/authorities.

4.2 *Annual budget*

Budget (EUR)*		
2013	2014	2015
9,112,097	9,632,150	7,738,500

* Excluding sums earmarked for the purchase of a new building and sums remitted to the state budget (from HCC's surplus each year).

4.3 HCC Employees – Human Resources

71. The Directorate-General of the HCC (the investigative arm of the Authority) is organised in Units by reference to sectors of the economy. Within those Units, all non-administrative staff contributes to all areas of competition enforcement (mergers, anti-cartel, anti-competitive agreements, dominance-related issues, advocacy etc), according to their individual field of sectoral expertise and depending on the actual needs of the Authority and overall resources available (on a case-by-case basis).

72. Total number of staff is 100⁴, out of which 64 is non-administrative staff working on competition enforcement⁵.

HCC staff (year end 2014)	
Staff Category	Number of staff
Competition specialists (economists)	36
Competition specialists (lawyers)	22
Competition specialists (cost analysts)	4
Competition specialists (statisticians)	2
Total (enforcement)	64
Administrative support, including IT experts, staff on secondment to other public sector entities or on unpaid leave	36
Total	100

⁴ This figure excludes the Members of the HCC Board (the decision-making arm of the authority).

⁵ Seven (7) senior IT experts qualify as “administrative” staff, although they have a central role in conducting dawn raids and handling the electronic data of the investigations.