

## Hellenic Competition Commission

### Call for evidence: Tackling Unjustified Territorial Supply Constraints

The Hellenic Competition Commission (HCC) welcomes the initiative of the European Commission to tackle unjustified territorial supply constraints (TSCs). Multinational suppliers may employ a range of contractual, technical, or informal practices to fragment national markets, thereby restricting retailers' ability to source products from abroad. We support the removal of unjustified TSCs to increase cross border trade in daily consumer goods.

This could make daily consumer goods more affordable and support consumer purchasing power. Inflation in recent years has exposed vulnerabilities in food and consumer goods markets, with retailers and consumers possibly subject to segmentation strategies by multinational manufacturers<sup>1</sup>. While some price differences between Member States can be explained by legitimate factors – such as different legal requirements, languages, logistics costs, or local consumer preferences – many others cannot and may reflect a strategy of unjustified market partitioning.

Competition law constitutes an effective tool for addressing unjustified territorial restrictions when they arise from anticompetitive agreements or anticompetitive unilateral practices by companies holding a dominant position. However, many of these practices do not fall within the scope of competition law, such as unilateral practices by companies that do not hold a dominant position within the meaning of competition law.

Further, the HCC faces major challenges when investigating potentially anticompetitive TSCs, due mainly to their cross-border characteristics and the large number of products that could be affected. Given that the enforcement of competition law depends on

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<sup>1</sup> See also [\*Bringing an End to Unjustified Territorial Supply Constraints Non-paper by Austria, Belgium, Czechia, Croatia, Greece, Luxembourg, the Netherlands and Slovenia\*](#)



complex factual and legal assessments, enforcement procedures take a long time to be completed.

We have realized certain comparative surveys on prices as well as on the quantities available in basic consumer goods among Member States of the European Union, considering the rate of inflation in various product categories<sup>2</sup> and have looked at the volume of parallel trade in products in the food value chain<sup>3</sup>. These studies point to a need to increase cross border trade to allow retailers, wholesalers and consumers to source their products from the member States of their choice.

Within this framework it seems appropriate to adopt legislation identifying prohibited practices (Option 4 of the Call for Evidence), so that certain behaviours may be prohibited ex ante and the behaviour of suppliers below the threshold of market dominance, whose conduct may have adverse effects on the internal market and consumers, may be scrutinised.

The time required and complexity of completing ex post enforcement based on relative market power (economic dependence- Option 3 of the Call for Evidence) indicates that this is not an appropriate way to tackle the issue. Further, initiatives based on self-regulation by the relevant market players (eg a code of conduct) or guidelines for national authorities and market operators (Options 1 and 2 of the Call for Evidence), are not appropriate to address the issue of unjustified TSCs, due to their limited effects for non-compliance and the financial incentives that may be underlying market partitioning strategies.

The Hellenic Competition Commission would welcome active involvement in this consultation process.

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<sup>2</sup> <https://www.epant.gr/en/information/publications/newsletters/item/2612-issue-6.html>

<sup>3</sup> <https://www.epant.gr/en/information/mappings/mapping-of-the-verinary-medicinal-products-market.html>