THE DOMINANCE AND MONOPOLIES REVIEW

Tenth Edition

Editors
Maurits Dolmans, Henry Mostyn and Patrick Todd

THE LAWREVIEWS

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TENTH EDITION

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PREFACE

It seems apt that in the preface to *The Dominance and Monopolies Review*'s 10th edition we confront the existential question facing the law governing unilateral conduct. That is: is *ex post* antitrust enforcement dying out?

Antitrust enthusiasts have three main reasons to be nervous. First, a decade of debate about under-enforcement has resulted in a wave of multi-jurisdictional regulatory initiatives to constrain the behaviour of large digital platforms and open up digital markets to more competition. These proposals vary, but tend to govern conduct that would traditionally have been subject to *ex post* antitrust enforcement. Second, authorities are turning to alternative tools to tackle unilateral conduct, such as market studies. Third, some perceive that authorities face a high evidentiary burden of successfully bringing abuse cases. Put together, these trends could leave a diehard abuse of dominance practitioner in low spirits about antitrust's future, at least in digital markets.

But other developments give cause for hope. Authorities remain adamant that digital regulations will complement rather than replace their existing abuse toolboxes, and that they will continue to investigate conduct that falls outside the scope of new regulation. Agencies, in particular the UK Competition and Markets Authority (CMA), have used their existing enforcement powers nimbly to open investigations and secure commitments from defendant companies quickly. And recent cases affirm that the abuse toolbox is not inflexible, putting into practice the classic mantra that the categories of abuse are not closed. There is space for abuse of dominance rules to be applied flexibly to conduct not previously explored, for example in relation to sustainability, although this raises separate issues regarding certainty for businesses.

As these trends and developments show, the law governing abuses of dominance, and the role it plays in competition policy, are constantly evolving and becoming more complex, bringing new challenges for businesses and practitioners to navigate. To provide some respite, this 10th edition of *The Dominance and Monopolies Review* seeks to provide an accessible and easily understandable summary of global abuse of dominance rules. As with previous years, each chapter – authored by specialist local experts – summarises the abuse of dominance rules in a jurisdiction, provides a review of the regime's enforcement activity in the past year and sets out a prediction for future developments. From those thoughtful contributions, we identify three main trends, as previewed above.

i Antitrust v. regulation

Over the past year, regulators and legislators have moved from consultation to action, as they have set out competing proposals for regulation to address perceived competition problems caused by concentration in digital markets. Mostly, these proposed regulations cover similar themes, such as prohibiting leveraging and self-preferencing, mandating interoperability and maximising user control over choices online.

Perhaps most significantly, the EU, with its draft Digital Markets Act (DMA), has formulated *ex ante* 'dos and don'ts' for large gatekeeper platforms. The UK has set up a digital markets unit (DMU) to create enforceable conduct requirements for companies with 'strategic market status'. While the legislation giving the DMU necessary enforcement powers has not yet been introduced, the DMU is operating in 'shadow' form to operationalise enforcement of the new regime. The CMA has also conducted two market studies into digital advertising and online platforms and mobile ecosystems to identify activities that should be subject to the regime. In Germany, the German 10th Amendment to the Act against Restraints of Competition introduced new rules to tackle companies with 'paramount cross-market significance' (PCMS). In essence, the law enables the Bundeskartellamt to designate firms as holding PCMS, and then to impose *ex ante* prohibitions on certain defined practices. The Bundeskartellamt adopted its first PCMS decision against Google in 2021, and a second PCMS decision against Meta in 2022. In the US, the American Innovation and Choice Online Act, which would regulate similar conduct as its foreign counterparts, is currently before the US Senate.

It is perhaps understandable that regulators and legislators seek to regulate rather than pursue individual cases. Regulatory rules can potentially reach quicker outcomes than antitrust cases, which can be long and complex and require proof that harm has or is likely to occur. As Commissioner Vestager has explained as the motivation for the DMA: 'We need regulation to come in before we have illegal behaviour and to be able to say these are the rules of the game and this is what you must do.'

The DMA will prohibit conduct directly covered by past and current abuse of dominance cases. For example, the DMA's prohibition on self-preferencing targets conduct that was the subject of the Commission's 2017 *Google Shopping* decision, currently on appeal to the CJEU. The DMA's prohibition on gatekeepers using non-publicly available data generated or provided by their business users to compete with those business users would address the conduct challenged in the Commission's ongoing investigations into Amazon and Meta. And the prohibition on gatekeepers requiring business users to use the gatekeeper's own payment service would address conduct alleged in the Commission's ongoing investigation into Apple.

Rules that are set to be enacted in the UK and US are similarly expected to displace antitrust enforcement against digital platforms like Amazon, Meta, Apple and Google. Unlike in the EU, though, these regimes appear to allow companies the opportunity to justify their behaviour, on the grounds of consumer benefits or that alternatives would lead to harm. For example, the CMA recognises that 'conduct which may in some circumstances be harmful, in others may be permissible or desirable as it produces sufficient countervailing benefits', and it has advised that conduct should be exempted under its new regime if it 'is necessary, or objectively justified, based on the efficiency, innovation, or other competition benefits it brings'. Likewise, the new German rules allow a company to justify its practices. That seems a better approach – for competition and consumers – and it is troubling that the DMA does not contain any analogous provision.

How will these new rules affect antitrust enforcement in digital markets? Will abuse of dominance give way completely to *ex ante* regulation?

We think not. As Commissioner Vestager said recently, antitrust and regulation 'are complementary – both will remain necessary. No one should expect the new [DMA] to replace Article 101 and 102 enforcement actions.' There are at least three reasons why there is space for antitrust enforcement to carry on – and expand – when regulation provides additional recourse.

First, though the DMA is broad, it applies to a discrete set of firms (those designated as gatekeepers), products/services (designated as 'core platform services') and practices (set out in the text of the DMA). Forms of conduct that fall between the cracks will therefore have to be addressed by traditional antitrust enforcement. For example, the DMA focuses on consumer-facing digital products and services, and practices involving business-to-business services could potentially slip through the net. The Commission is currently investigating various practices by Microsoft in relation to its collaboration software, Teams, and infrastructure-as-a-service software, Azure, following allegations of unlawful tying, bundling, and denial or degradation of interoperability. The Commission and the CMA also recently announced concurrent investigations into an agreement between Meta and Google (Jedi Blue), alleging that it could distort competition in the online display advertising market. And that's just digital markets. Antitrust enforcement has played, and will continue to play, a role in traditional markets. Recent cases in the EU and UK cover non-digital industries such as pharmaceuticals, electricity trading services and electric vehicle charge points.

Second, at least in the near term, antitrust enforcement remains the only recourse even for conduct that may be covered by forthcoming regulation. The DMA does not come into force until 2024, and UK and US equivalent laws are likely to be further away still. In February 2022, the chair of the House of Lords Communications and Digital Committee wrote to the CMA, urging it to take a 'more robust approach to using [its] existing enforcement powers' given that the 'new legislation could take a significant amount of time to come into force'. By way of reply, in March 2022, the CMA stated that it had 'identified options for taking further action in digital markets under [its] market investigation and competition enforcement tools, ahead of the DMU receiving its powers'.

Third, recent cases showcase the potential for abuse of dominance cases to be opened, investigated and closed quickly, parrying the oft-cited concern that abuse of dominance cases close the stable door after the horse has bolted. In the UK, the CMA opened an investigation into Google's proposal to remove third-party cookies from its Chrome browser, tested two rounds of commitments and closed its case in just over one year. It quickly opened an investigation into exclusivity contracts for electric vehicle charge points on motorways and secured commitments from the parties following a market study.

We therefore expect antitrust cases to continue to play an important role in maintaining competitive markets, even in the digital sector.

ii The evidentiary burden for authorities in abuse of dominance cases

Antitrust law has long suffered from the criticism that the existing abuse toolbox is too unwieldy – and the standard of proof for authorities too high – for necessary antitrust cases to be sustainable, in particular in the US. In its 2020 report on digital markets, for example, the US House of Representative antitrust subcommittee said, 'In the decades since Congress

enacted [the Sherman, Clayton, and FTC Acts], the courts have significantly weakened these laws and made it increasingly difficult for federal antitrust enforcers and private plaintiffs to successfully challenge anticompetitive conduct and mergers'.

In recent years, the perception that antitrust cases are prohibitively hard to bring appears to have subsided as authorities have opened more cases. In 2021 and early 2022, the CMA opened seven new abuse of dominance cases, having not opened any in 2020. The European Commission, for its part, opened six new abuse of dominance investigations, and US authorities have also been relatively active recently, following years of inaction compared with their European counterparts.

The European Commission has been the pioneer of big ticket antitrust cases in the past decade, issuing record-breaking fines to Intel, Google and Qualcomm. In 2022, though, the General Court partially annulled the Commission's 2009 decision imposing a €1.06 billion fine on Intel for abusing its dominant position through the granting of exclusivity-conditioned rebates. The judgment followed an initial General Court judgment in 2014 concluding that exclusivity rebates by dominant undertakings are per se abusive, regardless of the circumstances of the case, and that the Commission did not therefore have to establish that Intel's conduct was capable of restricting competition and there was no need for the General Court to review the Commission's as-efficient competitor (AEC) test. In 2017, the CJEU overturned the General Court's judgment, explaining that, although exclusivity rebates are presumptively unlawful, the presumption is rebuttable if the defendant shows that the conduct is not capable of restricting competition and foreclosing AECs.

In 2022, the General Court rendered a *renvoi* judgment annulling in part the Commission's decision and the fine in full. Applying the CJEU's judgment, the General Court found that the Commission had not established to the requisite legal standard that the rebates were capable of having, or were likely to have, anticompetitive effects. In particular, the Court identified errors in the AEC tests carried out by the Commission and found that the decision failed to properly consider two of the five criteria identified by the Court of Justice to assess rebates' ability to restrict competition, namely their market coverage and duration. Because it was not possible to identify the amount of the fine that related solely to the 'naked restrictions', which in the General Court's view the Commission correctly qualified as per se unlawful, the General Court annulled the entire fine.

The case establishes – at least in respect of exclusionary discounts – that if authorities choose to assess the anticompetitive effects of presumptively unlawful conduct, they must get that assessment right. Officials have claimed that the judgment raises the bar of enforcement to an unacceptably high level. Andreas Mundt, head of the German competition authority, said that the judgment 'might lead to a situation where the law becomes unenforceable because it takes even more time, it gets even more complex'. We disagree. The case establishes a roadmap for authorities to follow and guardrails to operate within when assessing exclusionary discounts. For example, the General Court criticised the Commission for running its AEC analysis in respect of a short time period, then extrapolating its analysis to cover a longer period. That approach is insufficient, which authorities will recognise going forward. Cases like *Microsoft (Windows Media Player)* show that, where the Commission appreciates that an effects-based analysis is required, it can undertake such an analysis and survive judicial review.

iii Expanding the abuse toolbox

Finally, recent EU and UK cases have shown that the abuse toolbox can be applied flexibly to new forms of conduct not previously examined by the courts.

In November 2021, the General Court upheld the Commission's decision finding that Google had committed an abuse by favouring its own comparison shopping service (CSS). The Commission previously found that Google positioned and displayed, in its general search results pages, its own CSS more prominently than competing CSSs. The Commission imposed on Google a fine of €2.42 billion. In the judgment, the General Court largely dismissed Google's appeal against the Commission's decision and confirmed the amount of the fine.

The General Court rejected Google's argument that the Commission should have established the legal conditions for a duty to supply (indispensability and risk of eliminating competition), because the case related to the issue of access to prominent placement on Google's results pages. The General Court accepted that the case is not 'unrelated to the issue of access', but it found the conduct 'can be distinguished in their constituent elements from the refusal to supply'. On that basis, the General Court held that the conduct constituted an 'independent' abuse, separate from a refusal to supply. Accordingly, the Commission was not required to show that the duty to supply conditions were met.It remains to be seen whether this legal test will survive on appeal, but it shows the Commission can apply the existing tools flexibly.

Another case showcasing the elasticity of the abuse toolbox comes from the UK. In October 2021, the Competition Appeal Tribunal (CAT) certified opt-out collective proceedings and rejected a claim for summary dismissal in *Justin Gutmann v. First MTR South Western Trains and Stagecoach South Western Trains*. The proceedings arose out of allegations that certain rail companies failed to use their best endeavours to ensure awareness among their customers of boundary fares (i.e., fares for travel to and from outer boundaries of Transport for London's rail zones) so that customers who took journeys beyond the outer zone covered by their Travelcard would not purchase a fare covering the totality of their journey (thereby paying for parts of their journeys twice). This, the proposed class representative claimed, constituted an exploitative abuse of dominance.

In response to the defendants' claim for strike out, the CAT held that the case on abuse was reasonably arguable. If the charging of unfair and excessive prices, or the use of unfair trading terms, by a dominant company can constitute an abuse, the CAT did not regard it as 'an extraordinary or fanciful proposition to say that for a dominant company to operate an unfair selling system, where the availability of cheaper alternative prices for the same service is not transparent or effectively communicated to customers, may also constitute an abuse'. In doing so, it held that the 'law on what constitutes unfair trading conditions, in particular, is in a state of development'.'

It also referred to the 2019 decision of the German Federal Cartel Office that Facebook had abused its alleged dominance by not giving its users a genuine choice over whether it could engage in unlimited collection of their personal data from non-Facebook accounts as one that was 'challenged as an extension of the boundaries of the law on abuse of dominance'. That case is making its way through the German appellate courts, and is pending the outcome of a preliminary ruling by the CJEU.

These cases remind us that, at least in the EU and UK, the existing abuse of dominance toolbox can be adapted to confront novel abuses (albeit with a high risk of judicial scrutiny). There is, for example, no inherent reason why sustainability could not be incorporated into an abuse of dominance assessment. Analyses of pricing practices could take environmental costs into account: the concept of 'competition on the merits' could include competition on sustainability (and reject competition based on overexploitation of public goods), and there

could be *sui generis* abuses that involve unsustainable business practices that also restrict competition. In addition, conduct that might otherwise be abusive could be excused because of sustainability-based objective justification.

With extensions of the case law, however, come increased uncertainty for businesses planning their practices. *Google Shopping*, for example, extends the law governing the circumstances in which dominant firms will be forced to provide access to a facility to their rivals, without that asset necessarily being indispensable for those rivals to compete.

As in previous years, we would like to thank the contributors for taking time away from their busy practices to prepare insightful and informative contributions to this 10th edition of *The Dominance and Monopolies Review*. We look forward to seeing what the next year holds.

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Cleary Gottlieb Steen & Hamilton LLP
London
June 2022

Chapter 11

GREECE

Marina Androulakakis, Tania Patsalia and Vangelis Kalogiannis[1]

I INTRODUCTION

In Greece, Law 3959/2011 on the Protection of Free Competition as amended and in force (Greek Competition Act) is the main piece of legislation regulating free competition. The prohibition of abuse of dominance is established, in particular, by virtue of Article 2 of the Greek Competition Act, which essentially mirrors Article 102 of the Treaty on the Functioning of the European Union (TFEU).

Hence, the abuse may consist of:

a directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

b limiting production, distribution or technical development to the prejudice of consumers;

c applying dissimilar conditions to equivalent trading transactions with other trading parties, especially the unjustified refusal to sell, buy or otherwise trade, thereby placing certain undertakings at a competitive disadvantage; or

d making the conclusion of contracts subject to acceptance, by the other parties, of supplementary obligations that, by their nature or according to commercial practice, have no connection with the subject of such contracts.

This year, the Greek legislature has brought about a series of substantial changes to the Greek Competition Act,[2] including extending the scope of the settlement procedure to also cover cases of abuse of dominance.[3] In addition, a simplified procedure regarding the issuance of a no action letter for public interest reasons has been introduced (Article 37A). As stipulated, the Chairman of the Hellenic Competition Commission (HCC) may issue a letter following

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2 By means of Law 4886/2022 (Government Gazette A' 12/24.01.2022).

3 A new provision has been also added to the Greek Competition Act (Article 1A) prohibiting unilateral conduct (invitation to collude, price signalling), which shall enter into force on 1 July 2022. It is, however, explicitly stipulated that application of such new provision is excluded where the conditions for application of Articles 101 TFEU and 1 of the Greek Competition Act on restrictive practices and/or Article 102 TFEU and 2 of the Greek Competition Act on abuse of dominance are met.

an interested party's request stating that no enforcement action will be taken against certain multilateral or unilateral conduct when this is justifiable for public interest reasons, with an emphasis on the attainment of sustainable development goals.[4]

The HCC is the national competition authority, which, without prejudice to the responsibilities of other authorities, is competent for the enforcement of the provisions of the Greek Competition Act, as well as of Articles 101 and 102 of the TFEU.[5]

The HCC has issued acts on procedural issues that also apply in investigations for abuse of dominance cases, such as rules on procedure for the acceptance of commitments,[6] the treatment of confidential information[7] and access to files.[8]

In assessing abuse of dominance cases, the HCC follows the relevant guidance of the European Commission and respective EU case law.

Finally, in relation to the telecommunications sector, the Hellenic Telecommunications and Post Commission (EETT) is, pursuant to the provisions of Law 4727/2020 on digital governance, electronic communications and other provisions, responsible for, inter alia, applying the provisions of the Greek Competition Act as well as of Articles 101 and 102 of the TFEU and EU Regulation 1/2003 in relation to the exercise of electronic communications activities.[9]

II YEAR IN REVIEW

In 2021, the HCC issued two decisions on abuse of dominance cases leading to the finding of an infringement and the imposition of fines by the authority.

Between 2012 and 2017, the HCC issued 11 decisions on abuse of dominance.[10] In 2018 the authority rendered a notable decision against Elais-Unilever Hellas for the implementation of abusive practices at the retail and wholesale level in the margarine market, resulting in the imposition of a fine of approximately €8.7 million regarding the abuse of dominance aspect of the case.[11] In 2019 and 2020, the HCC issued seven decisions related to abuse of dominance.

i Resoul

By virtue of Decision 730/2021, issued on 26 March 2021, the HCC imposed a fine of circa €1.1 million against Resoul, a company holding a dominant position in the wholesale market for general purpose gas appliances with market shares of over 65 to 75 per cent, for the infringement of Articles 1 and 2 of the Greek Competition Act, as well as Articles 101

4 The HCC shall be issuing a decision laying down the criteria and conditions for issuance of a no action letter, which is pending at the date of the drafting of this chapter.

5 Articles 101 and 102 of the TFEU are directly applicable in Greece in cases where it is proven that trade between Member States is affected.

6 HCC Decision 588/2014.

7 HCC Notice of 13 January 2015.

8 HCC Rules of Internal Procedure and Management of 16 January 2013, as amended and in force.

9 EETT is also competent for the application of the competition rules in the postal services sector by virtue of Law 4053/2012 on the regulation of postal market operation, telecommunication issues and other provisions.

10 OECD Peer Reviews of Competition Law and Policy, Greece, 2018, p. 40.

11 HCC Decision 663/2018.

and 102 of the TFEU. The case was brought before the HCC by means of a complaint of its former distributor further to which the Directorate for Competition (DGC) initiated an *ex officio* investigation.

More specifically, Resoul was found to be in breach of competition rules in its cooperation with wholesalers/distributors as well as with supermarkets through which Resoul almost exclusively distributed its products. As regards the abuse of dominance aspect of the case, the HCC focused on the exclusivity obligations imposed by Resoul upon its wholesalers/distributors combined with the offering of target rebates thereto, as well as on the offering by Resoul of loyalty-inducing rebates based on individualised targets to the supermarkets.

The HCC ruled that the above-mentioned imposition of exclusivity obligations by Resoul upon its distributors (in the period from 2008 to 2012), in combination with its target rebates, amounted to an abuse of dominance aiming at excluding the company's competitors from the market. In reaching this conclusion, the authority also considered the effect of said exclusivity obligations taking into account Resoul's super-dominant position in the market, the marginal market shares of its competitors, the must-have character of its products, the fact that the exclusivity obligations covered a significant part of the overall demand (35 to 45 per cent in 2008 and 15 to 25 per cent in 2012) as well as the fact that Resoul formed an unavoidable trading partner for the wholesalers. The HCC referred to the *obiter dictum* of the *Hoffman la Roche* case law of the Court of Justice of the EU,[12] thus prioritising the finding of an abusive conduct based on the exclusivity obligations and considering the target rebates offered by Resoul to its wholesalers/distributors in supplement to the extent the latter were deemed to reinforce the restrictive effect on competition (i.e., the potential foreclosure of Resoul's competitors). The HCC also considered that Resoul had abused its dominant position by offering retroactive and individualised rebates to the supermarkets, which could create loyalty to Resoul.

ii Endiale SA

By means of Decision 741/2021, the HCC imposed a fine of €111,600 against Endiale SA (former Eltepe SA) for the infringement of Article 2 of the Greek Competition Act and Article 102 TFEU. The case concerned the Greek markets for waste lubricant oil management, which, according to the authority, consists of the following (vertically linked) markets: (1) the market for the collection of waste lubricant oils, (2) the market for the organisation and operation of waste lubricant oil alternative management systems, and (3) the market for remediation/recycling of waste lubricant oils.[13] The HCC decision was rendered after several complaints filed by companies and an association active in the markets under (1) and (3) above against Endiale SA, which held a monopoly in the market under (2) above.[14]

12 CJEU Decision in C- 85/76, Paragraph 95 ('where exclusivity has been formally accepted the granting or not of a rebate is in the final analysis irrelevant').

13 In the absence of relevant EU case law, the HCC considered in its market definition the market delimitation adopted in the EU case law regarding the management and recycling of packaging, see EU General Court Decision in T-419/03, *Altstoff Recycling Austria v. Commission*, Paragraphs 15 and 18.

14 In essence, for the period between July 2004 and January 2013, Endiale SA, owner of the only authorised waste lubricant oil management system in Greece, held both a monopoly and a monopsony, in the sense that the collectors were required by law to sell their waste lubricant oils solely to a management system (and, hence, to Endiale's system, which was the only active system in Greece), while the companies active in the market for the remediation/recycling of waste lubricant oils were buying exclusively from Endiale, which thus covered the entirety of the needs of these companies. In other words, collectors of waste

The HCC focused its assessment on the horizontal foreclosure of Endiale's competitors in the market under (2) above examining in this respect the following alleged practices: exclusivity clauses in the agreements of Endiale with waste lubricant oil collectors (upstream) as well as with remediation/recycling companies (downstream), the unilateral imposition of the prices at which the collectors sold the waste lubricant oils to Endiale, and the latter's refusal to sell to one of the complainants (a remediation/recycling company).

In view of the above, the HCC found that Endiale abused its dominant position for having included the exclusivity clauses in its agreements with the collectors and the remediation/recycling companies, while it rejected the rest allegations of the complainants regarding prices and refusal to sell. According to the HCC, such exclusivity clauses aimed at directing every source of supply to Endiale thus foreclosing any potential competitor in the market under (2) above, as the latter would not have access to any sources of supply for its activity. It is notable that the HCC rejected Endiale's defence for the justification of its conduct on the basis of reasons of environmental protection and sustainable development, ruling that the company did not put forward any evidence objectively justifying the necessity of such exclusivity clauses for the attainment of the above objectives.

iii DEPA Commercial SA

In addition to the two cases discussed above, the HCC issued a decision accepting DEPA Commercial SA's request to be exempted from the commitments that had been adopted through HCC Decision 551/VII/2012, as amended by various HCC decisions,[15] in the markets for supply of natural gas and access to the natural gas network.[16] In particular, the HCC, considering the prevailing conditions in the domestic market for natural gas, concluded that a substantial change in the circumstances on which Decision 551/VII/2012 was based had occurred as well as that the commitments had fulfilled their purpose given that new players had entered and expanded their activities in the Greek market.

lubricant oils were by law prohibited from selling directly to remediation/recycling companies but had to sell to a management system that resold the products to the remediation/recycling companies. This market structure was abolished in 2013, when Endiale's role was limited to the qualitative and quantitative control of waste lubricant oils in the Greek market, thus ceasing to act as intermediary in the sale and purchase of such oils. According to the HCC, this new market structure created an ecosystem considering that Endiale's system operated as a platform that connected the economic activities of different companies for the provision of services to different user groups.

15 HCC Decisions 589/2014, 596/2014, 618/2015, 631/2016 and 651/2017.

16 HCC Decision 737/2021, in which the authority exempted the company from Commitments Nos. 1-2 and 4-7 aiming at the liberalisation of the Greek gas supply market through 'a) the unbundling of gas supply from gas transportation services, b) the higher degree of customers' mobility and increase of liquidity in the market of natural gas, c) the introduction of fair, transparent and non-discriminatory model contractual terms (including cost-oriented pricing of peak gas and other ancillary services) as approved by the Regulatory Authority for Energy (RAE) and d) the gradual opening of reserved capacity in the natural gas transmission network'; see OECD, Working Party No. 2 on Competition and Regulation, Competition Enforcement and Regulatory Alternatives – Note by Greece, 2021, pp. 6–7. Commitment No. 3 regarding the company's obligation to implement the programme of distribution of natural gas quantities through electronic auctions had already been lifted by means of HCC Decision 723/2020; see *The Dominance and Monopolies Review*, 9th Edition, 2021, p. 239.

iv Summary

Summarised information about HCC investigations and decisions issued during 2021 is provided below.

HCC investigations of abuse of dominance in 2021 (and 2022 to date)

Sector	Investigating authority	Conduct	Case opened
Eyewear sector	HCC	Suspected anticompetitive practices under Articles 1 and 2 of the Greek Competition Act and/or Articles 101 and 102 TFEU affecting retail prices	February 2022
Market of retail supply of electricity to small consumers (low voltage)	HCC	Unspecified (the HCC has proceeded *ex officio* to investigative measures in 18 companies operating in the market in order to identify any anticompetitive practices)	December 2021
Markets for sunflowers, cotton and maize seeds, and markets for plant protection products	HCC	Unspecified (the HCC carried out an unannounced inspection, acting *ex officio*, at the premises of an undertaking active in these markets for the identification of any anticompetitive practices)	December 2021
Markets for production and supply of pharmaceutical products	HCC	Abuse of dominance, unspecified	October 2021
Refining, wholesale and retail trade of petrol (gasoline) and diesel	HCC	Abuse of collective dominance, unspecified	September 2021
Market of printers of regular printing format (A3, A4) of all types (e.g., SFP and MFP), and printer consumables (e.g., printer toner)	HCC	Unspecified (the HCC carried out unannounced inspections at the premises of undertakings active in this market in order to identify any anticompetitive practices)	July 2021

HCC decisions for abuse of dominance in 2021

Sector	Investigating authority	Conduct	Fine imposed
General purpose gas appliances	HCC	Exclusivity obligations and target rebates	€1.1 million
Waste lubricant oils	HCC	Exclusivity clauses	€111,600
Natural gas	HCC	De facto exclusivity, bundling of services and denial of access to essential facilities	Acceptance by the HCC of a request by DEPA to be exempted from the commitments that had been adopted through HCC Decision 551/VII/2012, as amended by HCC Decisions 589/2014, 596/2014, 618/2015, 631/2016 and 651/2017

III MARKET DEFINITION AND MARKET POWER

The Greek Competition Act does not provide a definition of dominance. The HCC follows the notion of dominance, as this has been formulated by relevant European and Greek case law. Hence, high market shares (greater than 40 or 50 per cent), and an undertaking's ability to act independently of its competitors' customers and ultimately consumers, are factors that

are taken into account. This is also evident in the HCC's case law,[17] in which the authority found that a market share of steadily higher than 65 to 75 per cent in the relevant market suffices to establish that the first criterion of the existence of a dominant position is met. The structure of the market (such as competitors' market position, existence of barriers to entry and countervailing buyer power) is also decisive.

In addition, Article 2 of the Greek Competition Act has been found by the HCC to apply in situations of collective dominance, whose existence presupposes, in accordance with the EU approach, the concurrence of the following two conditions: lack of competition between the dominant parties and absence of (substantial) outside competition.

Special rules apply in the mass media sector. In particular, pursuant to Article 3 of Law 3592/2007 on the Concentration and Licensing of Mass Media Enterprises and Other Provisions, as in force, a concentration that leads to the creation of a dominant position in the media sector is prohibited. The relevant market share criteria applicable for determining dominance are as follows:

a market share exceeding 35 per cent, where the company is active in only one media sector (television, radio, press and magazines);

b market share exceeding 35 per cent in each market and with respect to the specific geographical market covered in each sector, where the company is active in more than two media sectors;

c total market share exceeding 32 per cent in two sectors with the same geographical coverage;

d total market share exceeding 28 per cent in three sectors with the same geographical coverage; and

e total market share exceeding 25 per cent in four sectors with the same geographical coverage.

IV ABUSE

i Overview

Article 2 of the Greek Competition Act, which essentially mirrors Article 102 TFEU, does not contain an exhaustive list of types of abuses. According to the HCC, the purpose behind the prohibition of abusive exploitation of a dominant position is the protection of the free market system and of the economic freedom of third parties.[18] In addition, while the finding of dominance is not per se unlawful, a dominant undertaking has a special responsibility to refrain from impairing, through its conduct, genuine undistorted competition on the market.[19]

It is settled in case law (following in the footsteps of EU case law)[20] that the concept of abuse is objective relating to the behaviour of an undertaking in a dominant position that is such as to influence the structure of a market, where as a result of the very presence of the undertaking in question, the degree of competition is weakened and through recourse to

17 HCC Decision 730/2021, *Resoul*.

18 HCC Decision 590/2014, *Athenian Brewery*, Paragraph 239.

19 HCC Decision 581/VII/2013, *Procter & Gamble Hellas*, Paragraph 262 and HCC Decision 730/2021, *Resoul*, Paragraph 96.

20 CJEU Decisions in C-85/76 *Hoffmann-La Roche v. Commission*, Paragraph 91, C-322/81, *Michelin v. Commission*, Paragraph 70 and C-62/86, *Akzo v. Commission*, Paragraph 69.

methods that, unlike normal competition, has the effect of hindering the maintenance of the degree of competition still existing in the market or the growth of that competition.[21] Hence, it is sufficient to show that the abusive conduct of the undertaking in a dominant position tends to restrict competition or, in other words, that the conduct is capable of having that effect.[22]

However, information witnessing intent of the dominant undertaking to exclude its competitors, especially when such evidence consists of internal documents, may be taken into account as direct evidence in assessing a dominant undertaking's commercial practices to conclude whether these are geared towards the protection of its reasonable commercial interests or whether these were designed and implemented for the purpose of excluding competitors.[23]

ii Exclusionary abuses

Article 2 of the Greek Competition Act does not distinguish between exclusionary and exploitative practices, hence both practices are deemed to be caught by the prohibition. To date, the HCC has dealt with a number of abusive practices; however, its most important cases involve rebates and exclusivity terms.

In the *Athenian Brewery* case,[24] dating back to 2014, the HCC imposed a record fine of approximately €31 million against Athenian Brewery, the Greek subsidiary of Heineken NV, for abuse of its dominant position in the Greek beer production and distribution market, in breach of Article 2 of the Greek Competition Act and Article 102 of the TFEU. In particular, the HCC found that Athenian Brewery applied an exclusionary strategy to exclude its competitors from the on-trade consumption market (such as HORECA (hotel, restaurant and café) chains and other retail outlets) and to limit their growth possibilities for a period of 15 years. According to the authority, the company employed various commercial practices aimed at exclusivity, including significant payments conditional upon exclusivity or the foreclosure of competitive brands, loyalty and target rebates.

More recently,[25] the HCC imposed a fine of approximately €8.7 million against the company Elais-Unilever Hellas for abuse of dominance. The case involved, inter alia, the offering of target rebates to various supermarkets in the margarine market. The HCC stipulated that the rebate schemes that were offered in exchange for the client's undertaking to increase its purchases from Elais-Unilever, or to achieve a specific sales target, constituted abuse of dominance. The HCC based its findings on the following:

a the rebates being conditional upon the achievement by the client of a quantitative target regarding products purchased by Elais-Unilever;

b the target was determined at the beginning of each fiscal year, whereas rebates were paid at the end of this period (i.e., an excessive rebates period was applied);

c the amount of the rebates depended on the purchased quantities during the above excessive period of reference compared to realised purchases during the previous reference period by the same buyer (individual character of rebates scheme); and

d the rebate was applied retroactively.

21 Decision 869/2013 of the Athens Administrative Court of Appeals, Paragraph 35.

22 Decision 2458/2017 of the Athens Administrative Court of Appeals, Paragraph 8.

23 HCC Decision 520/VI/2011, *Tasty Foods*, Paragraph 174.

24 HCC Decision 590/2014, *Athenian Brewery*.

25 HCC Decision 663/2018.

Finally, another notable HCC decision involving a bundling practice includes that of *Nestlé*,[26] in which the HCC found that Nestlé unlawfully imposed bundling arrangements on its clients in the instant coffee retail market. Nestlé was also held liable for the enforcement of exclusive supply clauses in its agreements with its clients, as well as for offering loyalty rebates to the latter in the same market.[27]

iii Discrimination

The HCC has also dealt with a few discriminatory treatment cases in the energy sector. In its *Gas Distribution Companies* case,[28] the HCC found that the non-acceptance of the gas tube of the complaining company and the refusal to grant a licence for use in gas facilities, where the complaining company's steel tubes were used, constituted unjustified discriminatory treatment by the gas distribution companies of Thessaloniki and Thessaly, and imposed against them a fine of approximately €620,000.

In addition, in 2015, the HCC rendered its decision[29] in the case of *Public Power Corporation (PPC) v. Aluminium SA*, accepting commitments offered by PPC. According to the HCC investigation, PPC, the incumbent producer and supplier of electricity in Greece, had allegedly abused its dominant position by refusing to supply Aluminium SA and by imposing on it unfair and discriminatory trading conditions.

iv Exploitative abuses

In 2017, the Athens Administrative Court of Appeals issued its decision in the *AEPI* (the Hellenic Society for the Protection of Intellectual Property) case.[30] The case was originally brought before the HCC, following a complaint by various music creators for AEPI's alleged abuse of dominance in the market for the management of copyright of Greek and foreign composers of musical works by setting unreasonable fees for said management.[31] The HCC compared fees charged by AEPI against fees charged by foreign collective management organisations (CMOs) (in particular by a Swiss CMO), concluding that the amount charged by AEPI, in relation to phonogram rights, was abusive.

The HCC decision was challenged by AEPI. Following a lengthy process before Greek courts, the Athens Administrative Court of Appeals issued its decision on the case, ruling essentially that the comparison method employed by the HCC was the most appropriate due to the same object pursued by AEPI and CMOs, and the specific characteristics of the market.

V REMEDIES AND SANCTIONS

The Greek Competition Act authorises the HCC to impose a series of sanctions, as well as behavioural or structural remedies, upon finding an infringement of Article 2 thereof or Article 102 of the TFEU, or both.

26 HCC Decision 434/V/2009.

27 See also above an analysis on the *Resoul* case involving exclusivity obligations and target rebates, as well as the *Endiale* case also touching upon exclusivity clauses.

28 HCC Decision 516/VI/2011.

29 HCC Decision 621/2015.

30 Decisions 1102/2017 and 1103/2017 of the Athens Administrative Court of Appeals.

31 HCC Decision 245/III/2003.

i Sanctions

The Greek Competition Act provides that a fine will be imposed on undertakings or associations of undertakings for abuse of dominance or failure to fulfil commitments made by them and that are made binding by the HCC decision or failure to comply with the behavioural or structural remedies imposed on them. The amount of the fine must not exceed 10 per cent of the aggregate worldwide turnover of the undertaking for the financial year preceding the issuance of the HCC decision. In the case of groups of companies, the group's aggregate worldwide turnover is taken into account for calculating the fine. The calculation of the fine is also subject to factors such as the gravity, duration and geographic scope of the infringement, as well as the duration and nature of participation in the infringement by the undertaking. If the economic benefit of the undertaking that derived from the infringement can be measured, the amount of the fine cannot be less than that (even if it exceeds the 10 per cent upper limit).

The HCC may impose on the infringing undertaking a penalty payment per day for non-compliance with its decision, which is determined in proportion to the average daily total worldwide turnover achieved by the undertaking in the preceding financial year of up to 3 per cent of said turnover.

Individuals who, due to their position in the company are involved in the infringement, are jointly liable with the company for payment of the HCC fine and may also be separately fined by an amount ranging from €200,000 to €2 million, as long as it is established that they participated in the organisation or commitment of the infringement. Their position in the company and the degree of their participation in the infringement shall be taken into account.

According to the HCC Guidelines on the calculation of fines of 12 May 2006, as supplemented in 2009, the HCC determines the basic amount of the fine, depending on the gravity and duration of the infringement; the fine shall not exceed 30 per cent of the undertaking's total gross revenues for each year of the infringement. This amount is then adjusted – upwards or downwards – depending on aggravating or mitigating factors that may exist. The overall amount of the fine, for all years of the infringement, should not, as a rule, exceed the 10 per cent cap set by the law.

This year, the HCC imposed fines in both abuse of dominance cases that were examined by it. In *Resoul*,[32] involving, inter alia, the imposition by Resoul on its distributors of exclusivity obligations that, in combination with the offering of target rebates, were found to have led to the retaining of the company's dominant position by excluding its competitors, the HCC imposed a fine of €1,100,547.11 upon Resoul.[33] In calculating the fine, the HCC considered factors such as the prolonged financial crisis, which has also affected the sector concerned; and Resoul's cooperation with the HCC beyond its legal obligation to do so during the administrative process, which led to a reduction of the fine of 30 per cent and 25 per cent, respectively. The HCC also required that Resoul refrains from similar practices in the future and threatened a fine against Resoul in the event the HCC decides in the future that the above-mentioned established infringements continue or are repeated. In *Endiale*,[34]

32 HCC Decision 730/2021.

33 For both the infringements of Articles 1 and 2 of the Greek Competition Act and Articles 101 and 102 of the TFEU.

34 HCC Decision 741/2021.

the HCC imposed a fine of €111,600 against Endiale for its infringement of Article 2 of the Greek Competition Act and Article 102 TFEU by means of inclusion in its agreements of exclusivity terms, thus abusing its dominant position.

Penal sanctions, in the form of a monetary penalty ranging from €30,000 to €300,000, may also be imposed in abuse of dominance cases. Penal sanctions are imposed by the competent criminal authority against an undertaking's legal representatives.

ii Behavioural remedies

The Greek Competition Act also provides for the imposition by the HCC of behavioural remedies, to the extent these are necessary and appropriate for the termination of the infringement, depending on its nature and gravity.

The HCC has accepted commitments of a behavioural nature by infringing undertakings in its past case law.[35]

iii Structural remedies

According to the Greek Competition Act, the HCC may impose structural measures only in cases where there are no equally effective behavioural measures, or the existing equally effective behavioural measures are more burdensome compared to the structural ones.

Contrary to its practice in merger control cases, the HCC does not seem to favour the imposition of structural measures in the context of abuse of dominance cases.

VI PROCEDURE

The HCC may initiate an investigation either acting *ex officio* or following receipt of a complaint. Investigations are most commonly triggered by complaints submitted to the HCC.

The case is assigned to the competent economic and legal services directorates of the DGC, which proceed to a preliminary assessment of the case based on information requests to interested parties, as well as on-site investigations (dawn raids). This year the DGC has conducted a significant number of dawn raids (17 dawn raids on 101 undertakings)[36] in different sectors. Failure to provide information requested by the HCC, as well as obstruction of the DGC's dawn raid, entail the imposition of a daily penalty payment, calculated pro rata to the average daily total worldwide turnover achieved by the undertaking in the preceding financial year but not exceeding 3 per cent of this turnover.[37] Criminal penalties of at least six months' imprisonment may also be imposed in this case.

Upon completion of the DGC investigation, the case is assigned to a rapporteur (who is an HCC member). The rapporteur must submit his or her statement of objections to the HCC within 150 days of assignment of the case. This deadline may be extended by a

35 See, indicatively, HCC Decision 698/2019 (*Diageo*).

36 HCC Newsletter No. 5, February 2022, p.31

37 The HCC may also impose a separate fine against the directors and employees of the undertaking concerned from €15,000 to €30,000 for each day of non-compliance with a request for information In the case of obstruction of a dawn raid, the HCC may also impose a fine ranging from €5,000 to €2 million on the employees of the infringing entity. A penalty payment ranging from €15,000 to €2 million may be imposed on any other person impeding the investigation.

maximum period of 60 days by the HCC Chairman following the rapporteur's request. The only exception is if, based on HCC Decision 696/2019 on the prioritisation of cases, the case does not match the prioritisation criteria and is filed away.

Following submission of the rapporteur's statement of objections, the case is heard by the HCC. The HCC is not bound by the statement of objections.

Interested parties are summoned to appear before the HCC at least 45 days before the hearing and are served with the rapporteur's statement of objections at the same time. Parties must submit their statements of objection 20 days prior to the hearing. In addition, they may submit their addenda rebuttal 10 days before the hearing. After completion of the hearing and after notification to them of the minutes of the hearing, parties have a short deadline to submit their final pleadings before the HCC issues its ruling. According to the law, the HCC's decision must be taken within 15 months of assignment of the case to the rapporteur. This deadline may be extended for a maximum of two months.

The Greek Competition Act also provides for an interim measures procedure where there is an emergency that necessitates the prevention of an imminent danger of irreparable damage to the public interest. Interim measures may be taken on the HCC's own initiative. The HCC may now also issue a provisional order pending the outcome of the HCC's decision on the adoption of interim measures.[38] In the event of issuance of a provisional order, the interim measures shall be brought before the HCC (at Plenary or before the competent chamber) within 30 days, otherwise the provisional order automatically ceases to apply. In the case of the ordering of interim measures, the HCC is required to bring the case before the competent chamber or the Plenary within 12 months from the issuance of the interim measures decision (said deadline may be extended for additional 12 months, otherwise the interim measures automatically cease to apply).

In addition, undertakings under investigation may offer commitments at any stage of the investigation and at the latest 20 days prior to the hearing (if they have been served with the rapporteur's statement of objections). The procedure for the acceptance of commitments by the HCC is summarised as follows:[39]

a preparatory meetings with the DGC or the rapporteur handling the case, or both;
b prioritisation and assignment of the case to a rapporteur, if not already done;
c assessment of the intent of the offering undertaking, suitability of the case for the acceptance of commitments and adequacy of the commitments;
d submission of a commitments offer by the undertaking within 30 days of being invited to do so by the rapporteur;
e market testing (if considered appropriate);
f drafting by the rapporteur of the statement of objections for the acceptance of the commitments offer;
g service of the statement of objections to the interested parties (i.e., the undertakings under investigation and complainants) within three months of the submission of the commitments offer;
h summoning of parties to the hearing, at least 45 days in advance; and
i issuance of the HCC decision, by virtue of which the commitments are made binding.

38 Such possibility was introduced by means of the recent amendment of the Greek Competition Act.
39 HCC Decision 588/2014.

HCC decisions may be challenged before the Athens Administrative Court of Appeals within 60 days of their notification to the parties. The above deadline, as well as the filing of the appeal, do not have a suspensory effect; suspension of enforcement may, however, be granted by the Court upon request of the interested party. Decisions of the Athens Administrative Court of Appeals may be challenged by an application for cassation before the Council of State. As regards interim measures decisions in particular, these are only subject to appeal before the Athens Administrative Court of Appeals within 60 days of their notification to the parties.

VII PRIVATE ENFORCEMENT

Law 4529/2018 on transposing into Greek law Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union and other provisions (Law 4529/2018) governs private enforcement of competition law in Greece.

Like Directive 2014/104/EU, Law 4529/2018 introduces the right to full compensation of every natural or legal person that has suffered harm by an infringement of competition law. Compensation includes both actual loss and loss of profit, plus payment of interest (Article 3).

Law 4529/2018 does not, however, include a collective redress mechanism, despite the European Commission's relevant horizontal recommendation.[40] Thus, it may be expected that the general Greek legislation on the matter would apply (Article 74 of the Greek Code of Civil Procedure). In addition, the possibility to bring a collective action for damages is provided for by Law 2251/1994 on consumer protection. However, in the absence of relevant case law, it is not absolutely clear whether these provisions would apply to private antitrust enforcement cases or whether these are limited to matters solely arising under the consumer protection legislation.

For the calculation of the damages, Law 4529/2018 stipulates that the court may estimate the amount of the damage inflicted on the claimant based on a probability standard in cases where it is practically impossible or excessively difficult for the claimant to determine the precise amount of the harm suffered on the basis of the available evidence. To this end, the court should consider the nature and scope of the infringement, as well as the diligence that the claimant showed in collecting and using the relevant evidence. In this respect, we would expect the court to rely on relevant soft-law provisions of the European Commission.[41]

As regards the evidence that may be used in the context of private competition litigation, Law 4529/2018 specifically mentions that the court is authorised to order the disclosure of evidence contained in the HCC's and EETT's case files. This possibility is, however, subject

40 Commission Recommendation of 11 June 2013 'on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law'.

41 Communication from the Commission 'on quantifying harm in actions for damages based on breaches of Article 101 or 102 of the Treaty on the Functioning of the European Union' and the accompanying Practical Guide of 11 June 2013.

to certain restrictions. In particular, the court may not order the disclosure of the following evidence until the HCC or EETT have terminated proceedings:

a documents and information drawn up by natural or legal persons specifically in the context of the proceedings before the HCC and EETT;

b documents and information drawn up by the HCC or EETT and sent to the parties during their proceedings; and

c withdrawn settlement submissions.

In addition, under no circumstance may the court order the disclosure of (1) leniency statements; (2) settlement submissions; and (3) documents that quote, to an extent, parts of the documents under (1) and (2).

At the same time, the finding of a competition law infringement by virtue of a decision of the HCC, the EETT or the European Commission, that is not subject to appeal, as well as a final decision of the Greek and EU courts, following appeal, is binding for the Civil Court ruling on a damages action. On the contrary, a final decision finding an infringement, which has been issued in another EU Member State and produced before the Greek Civil Court, constitutes conclusive proof of the infringement but is subject to rebuttal.

Third-party litigation funding is not specifically regulated by Greek law and it is not standard practice.

Law 4529/2018 provides for the formation of special chambers within the Athens Courts of First Instance and Appeals (which are competent by law to hear damages actions) consisting of judges specialised in competition law; however, these are yet to be formed.

Finally, following enactment of Law 4529/2018, no relevant court decision has yet been publicised applying the new legal framework in abuse of dominance cases. The greatest difficulty that the Greek courts are expected to face in awarding damages under Law 4529/2018 is how to quantify harm.

VIII FUTURE DEVELOPMENTS

Following this year's amendments to the Greek Competition Act, the HCC appears to be geared towards establishing a more consistent approach in governing the interplay between competition law and sustainability in line with the European Commission's competition priorities. In this respect, the HCC is expected to put in place a sandbox for sustainability and competition in the Greek market, the latter forming a supervised environment where companies can undertake initiatives that contribute to the goals of sustainable development while not significantly impeding competition. The sandbox will operate as a digital platform connected to the HCC website providing a secure messaging space between the parties and the HCC. The HCC acting upon certain evaluation criteria will be able to acknowledge that specific business plans and models notified to it via the sandbox do not raise competition concerns.

In terms of enforcement, the HCC was particularly active during 2021, conducting a record number of dawn raids in several sectors of the Greek economy. The degree of vigilance of the authority is expected to remain at a high level, with the HCC also undertaking policy initiatives to raise awareness of competition issues and to strengthen the culture of competition of both business and consumers, while combating anticompetitive practices, such as by means of the whistleblowing mechanism (the anonymous provision of information of public interest on competition issues).

Appendix 1

ABOUT THE AUTHORS

MARINA ANDROULAKAKIS

Bernitsas Law

Marina is an expert in EU, competition and antitrust law. She joined the firm in 1997 and advises national and international clients on antitrust, merger control and State aid issues, with substantial experience in cross-border and cross-section transactions, risk and strategy assessment and regulatory compliance.

Marina also has extensive experience in successfully representing clients across various industries in alleged cartel cases before the Hellenic Competition Commission as well as in merger cases, and has effectively coordinated multi-jurisdictional filings and obtained clearance for high-profile M&A transactions.

She has expertise in assessing commercial agreements and policies for their compliance with competition law and also provides on-site assistance and practical guidance in dealing with dawn raids. Marina advises on the national and EU legislation governing public procurement and has undertaken complaints to the European Commission concerning alleged violations of EU rules. She has extensive experience in advising clients on emerging and existing data protection requirements (such as the EU General Data Protection Regulation (GDPR)), including identifying gaps and areas of potential infringement of data protection laws, designing, drafting, reviewing and updating data protection policies and privacy statements for online activities as well as advising on internal investigation procedures.

Marina represents clients in procedures before the Hellenic Data Protection Authority and actively advises on GDPR compliance. She is also experienced in advising on employment-related privacy issues as well as on the application of data privacy rules in the context of electronic communications and the operation of CCTV networks. Prior to joining the firm, Marina worked as a trainee at the Commission of the European Communities Directorate-General IA-External Relations in Brussels.

Marina holds a BSc econ in government and law from the London School of Economics and political science and an LLM in European community law from King's College London. She is admitted to the Athens Bar (1999) and the Athens Court of Appeals (2004).

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Tania is a senior associate at the firm, which she joined in 2010. Her practice is focused on EU, competition and antitrust law, advising on all aspects of antitrust, merger control and

State aid rules. Tania regularly assists clients with antitrust and competition law issues arising from their commercial arrangements and has been involved in high-profile cartel and merger control cases before the Hellenic Competition Commission.

She provides clients with on-site assistance in dealing with dawn raids, including running workshops and mock exercises. Tania also advises on the application of EU law in Greece and the regulatory requirements applicable to the telecoms, media and technology sectors, regularly liaising with regulators such as the National Telecommunications and Post Commission, the National Council for Radio and Television, the Hellenic Data Protection Authority and the Hellenic Authority for Communication Security and Privacy.

She provides guidance to telecoms operators on licensing requirements, compliance with their annual reporting obligations and telecoms issues relating to the use of new technologies and the launch of new products and services. Tania has broad experience in all aspects of EU and Greek data privacy rules and she routinely advises clients on the proactive identification, assessment and management of risks associated with their privacy practices. Tania assists clients in GDPR compliance steps, and advises extensively on how to identify compliance gaps and draft privacy policies, consent forms and data processing agreements.

Prior to joining the firm, Tania worked as a lawyer with Ashurst LLP in Brussels as a member of their EU and competition and antitrust team and as a trainee at the European Commission, Directorate-General for Competition, Cartels Unit.

Tania holds a degree in law and a BA in communication and mass media from the National & Kapodistrian University of Athens, an MA in international law and diplomacy from Panteion University, Athens and an LLM in international legal studies from New York University School of Law. She is admitted to the Athens Bar (2012) and the New York Bar Association (2019).

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Vangelis advises on EU and competition law matters, including cartels, merger control and damages actions. He also acts in data protection projects, such as reviewing and drafting data processing agreements. Vangelis advises on the regulatory requirements under EU and Greek telecommunications rules and liaises with the National Regulatory Authority (EETT).

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