THE Dominance and Monopolies Review

Eighth Edition

Editors
Maurits Dolmans and Henry Mostyn

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PREFACE

Even before covid-19 disrupted the world as we knew it, competition law was at a crossroads, facing far-reaching and sometimes contradictory calls for reform – including with respect to monopolisation and abuse of dominance.

Some, such as President Macron and Chancellor Merkel, have argued that there is too much competition from abroad, and advocate for more permissive enforcement to facilitate 'European champions' to emerge: 'We need to adapt the EU competition law: [It's] too focused on consumer rights and not enough on EU champions' rights.'

Others maintain that there is too little competition, enforcement has been too permissive, and the rules should be tightened. Senator Elizabeth Warren, for example, has argued that 'competition is dying. Consolidation and concentration are on the rise in sector after sector. Concentration threatens our markets, threatens our economy, and threatens our democracy. Evidence of the problem is everywhere.' Similarly, Professor Joseph Stiglitz contends that 'current antitrust laws, as they are enforced and have been interpreted, are not up to the task of ensuring a competitive marketplace'.

A third set of commentators believes that competition policy is misdirected, that the historic focus of competition law has been too narrow, and that the consumer welfare standard should be expanded to take account of social, industrial, environmental, and other considerations (sometimes referred to as 'hipster antitrust').

And a fourth critique, voiced by Maurice Stucke and Ariel Ezrachi, maintains that many of today's problems result from too much 'toxic' competition overall, driven by ideologues, lobbyists, and privatisation, and that we need to promote a kind of 'noble competition', where rivals mutually strive for excellence.

To address these challenges, a dizzying array of reports has emerged commissioned by governments in the US, EU, UK, Germany, France, Australia and elsewhere. And from those reports, a constellation of ideas has emerged to overhaul competition law, including: reorientating the goals of antitrust policy away from the consumer welfare standard towards a broader societal test; reversing the burden of proof; per se bans on certain categories of conduct (including prophylactic controls on vertical integration); lowering the standard of judicial review; injecting political oversight into competition law enforcement; loosening the standard to impose duties to share data with rivals; introducing market study regimes; allowing authorities to impose remedies without formally establishing an infringement; and establishing mandatory codes of conduct for digital platforms.

Where does this all leave busy practitioners and businesses that are trying to navigate the complex and constantly-evolving rules concerning abuse of dominance? Helpfully, this eighth edition of *The Dominance and Monopolies Review* seeks to provide some respite, providing 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 notable points from last year's enforcement.

Exploitative abuses pre- and post-covid-19

Exploitative abuses have in recent years enjoyed somewhat increased attention from regulators. The covid-19 pandemic intensifies that trend. It is leading to extreme demand and price volatility for certain products, as well as fluctuations in firms' costs. As firms struggle to manage these changes, agencies are aggressively seeking to show they are preventing consumer exploitation during the crisis. Charging excessive prices or imposing unfair terms and conditions constitutes an abuse of dominance in many countries, including almost all OECD members. In the US, excessive prices are not in and of themselves a matter for competition enforcement at the federal level, but many states have laws that prohibit price gouging and the current administration recently issued an executive order designed to prevent hoarding and price gouging.

Governments across the world have indicated that they will remain vigilant to sudden and significant price hikes during the pandemic. For example, in March 2020 the European Competition Network issued a statement identifying excessive pricing as a particular concern during the outbreak, noting that 'it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current situation (e.g., face masks and sanitising gel) remain available at competitive prices'. In a similar vein, on 27 March, Commissioner Vestager explained that 'a crisis is not a shield against competition law enforcement' and that the European Commission (EC) 'will stay even more vigilant than in normal times if there is a risk of virus-profiteering'. Several national authorities have opened investigations or created task forces dedicated to preventing excessive prices during the crisis.[1]

Even before covid-19, however, EU agencies were increasingly pursuing exploitation theories. In 2016, Commissioner Vestager stressed that the EC would seek to 'intervene directly to correct excessively high prices'. So far, most recent exploitation cases have been in the pharmaceutical sector, but the French and German agencies have pursued exploitative abuse theories in the technology sector. We pick out four developments over the last year.

First, the Court of Appeal judgment in *Pfizer/Flynn*, discussed in the UK chapter of this book, brings helpful clarity to evidence required to bring an excessive pricing case. As a recap: in 2016, the Competition and Markets Authority (CMA) imposed record fines on Pfizer and Flynn for charging excessive prices for phenytoin sodium capsules, an anti-epileptic drug. In July 2018, that decision was quashed by the Competition Appeal Tribunal (CAT) on the basis that the CMA had applied the wrong legal test and had failed to consider appropriately the economic value of the product. In March 2020, the Court of Appeal upheld the CAT's judgment that the case should be remitted to the CMA, though it agreed with the CMA on some issues (which will affect the remitted investigation) and the CMA welcomed the judgment as a 'good result.'

1 For further discussion, see Cleary Gottlieb, *Exploitative Abuse of Dominance and Price Gouging in Times of Crisis*, 31 March 2020.

In a nutshell, the Court of Appeal held that competition agencies have a 'margin of manoeuvre' in deciding how to prove their cases, including the 'Cost Plus' method that the CMA had used. Importantly, though, if a defendant adduces evidence that challenges the agency's methodology (as the defendants did in this case), the agency should consider that evidence. The extent of the agency's duty to consider the evidence adduced by the defendant will depend on the extent and quality of the evidence (i.e., there is no need to investigate each and every claim the parties bring up if those claims are not sufficiently substantiated). On the facts of the case, the Court held that there was an obligation on the CMA to evaluate the defendants' evidence regarding the prices of phenytoin capsules because it was prima facie evidence that prices were fair.

Second, in the *Sanicorse* case, discussed in the France chapter, the Paris Court of Appeal annulled the French Competition Authority's (FCA) decision of imposing a €199,000 fine on Sanicorse for imposing excessive price increases for medical waste treatment. The FCA had found that Sanicorse had abruptly, significantly, and durably increased the waste disposal prices it charged hospitals and clinics. In its ruling of November 2019, the Paris Court of Appeal clarified the conditions for establishing an exploitative abuse. Repeating the dictum from the *United Brands* ruling, the Court emphasised that an exploitative abuse arises in a situation where a dominant firm 'has made use of the opportunities arising out of its dominant position in such a way as to reap trading benefits which it would not have reaped if there had been normal and sufficiently effective competition'. The Court of Appeal found that the authority had failed to demonstrate that Sanicorse's price increases were unfair, and it accordingly annulled the decision.

Third, in December 2019, the FCA found in its *Gibmedia* decision (also discussed in the France chapter of this book) that Google's termination of three advertisers' Google Ads accounts was abusive. The authority's theory is that termination policies that allegedly lack objectivity and transparency, and are discriminatory, are a form of exploitation of customers. An apparent problem with the theory, however, is that a decision to terminate supply cannot, by definition, exploit the customer – it does not 'reap a trading benefit' from the trading partner, as required by United Brands and stressed by the Paris Court of Appeal in its *Sanicorse* decision.

Fourth, in February 2019, the Bundeskartellamt found that Facebook's terms and conditions relating to its collection of user data constitute an abuse (discussed in the Germany chapter). The Bundeskartellamt held that Facebook's terms and conditions, under which users agreed to the combination of their data from, for example, WhatsApp, Instagram and Facebook, violated the GDPR. Relying on German law principles that unlawful terms and conditions can constitute an abuse of dominance, the Bundeskartellamt held that Facebook committed an exploitative abuse by combining data from different sources. In August 2019, however, the Düsseldorf Court of Appeal granted suspensive effect to Facebook's appeal against the decision, holding that there are serious doubts about its legality. The Court found that users are not exploited by Facebook's use of data because, unlike financial payments, the data can be replicated and used again. Users freely decide whether to allow use of their data by balancing pros and cons of using ad-funded social network. The Court also held that the Bundeskartellamt had failed to prove the required causal link between Facebook's abuse and its market power: it failed to show that Facebook's terms deviated from the terms that would exist in a more competitive scenario. The judgment on the merits is pending.

Despite the renewed appetite to bring exploitation cases, these cases should in our view – in line with Advocate General Wahl's warning in the *Latvian Banks* case – remain rare and

exceptional. Otherwise, there is a risk that the concept of exploitative abuse is stretched to address policy issues beyond the scope of competition law and that require broader discussion outside individual cases.

A greater push for interim measures

The second notable development in abuse of dominance enforcement in 2019 was the EC's decision – for the first time in an antitrust case in almost 20 years – to impose interim measures on Broadcom (this decision is discussed in the EU chapter). The decision orders Broadcom to cease to apply exclusivity provisions in six agreements with manufacturers of TV set-top boxes and modems, while the Commission's full investigation continues. On announcing the decision, Commissioner Vestager stressed that interim measures decisions are 'so important', especially in 'fast-moving markets'. The Commissioner emphasised that she is 'committed to making the best possible use of this important tool' so as to enforce competition rules 'in a fast and effective manner'.

Like other developments at EU level, push for greater use of interim measures has been encouraged by national authorities, particularly in France, with the Commissioner citing France as a source of inspiration. The UK CMA has also stated that greater use of interim measures is 'essential if the CMA is to respond to the challenges thrown up by rapidly changing markets', and Germany is adopting new rules to accelerate proceedings and apply interim measures.

Two examples discussed in the French chapter illustrate the FCA's expansionist approach to interim measures, both in cases involving Google. First, in *Amadeus*, the authority found Google's decision to suspend the Google Ads accounts of a paid phone directory services operator to be an exploitative abuse (similar to the theory in the *Gibmedia* case discussed above). The Paris Court of Appeal subsequently partly annulled the decision. Second, in early 2020, the authority found that Google's refusal to pay news publishers for showing preview snippets in search results alongside a link to the publisher's site may also amount to an exploitative abuse. The decision orders Google to enter into good faith negotiations with publishers, although it also makes clear that the negotiations may result in zero monetary compensation to publishers (considering that Google sends traffic to the publishers that they can monetise via ads on their page or convert users to paid subscribers).

Several points of caution should be heeded from the appetite to bring interim measures cases. Interim measures decisions should focus on the most egregious and clear-cut abuses, such as exclusivity clauses by obviously dominant firms, rather than seeking to create new law or go against existing precedent. The efficiency and effectiveness of competition procedures should not come at the expense of investigative rigour, due process, and the right to be heard. Interim measures should not prejudge the final decision from the authority on the merits. Accordingly, they should be tailored to implementing measures that are possible in principle to reverse, if it subsequently turns out that on a full merits review there is no case to answer. Finally, the new appetite to impose interim measures should not slow down the speed of the main proceedings, as agencies get caught up duplicating investigations and satellite appeals.

Per se bans on self-preferencing

The third development is the wide-ranging proposals to overhaul competition rules to address the perceived challenges of the digital economy. Proposals in the pipeline include the EC's suggestion for further regulation of digital platforms; mandatory codes of conduct in Australia to address perceived bargaining power imbalances between platforms and media

companies; and, in the UK, the CMA's aim to develop 'a coherent and innovation-friendly approach to governing digital technologies to ensure their benefits are shared far and wide'.

Describing all these proposals is beyond the scope of the present editorial. We instead focus on one eye-catching suggestion: the suggestion – included in several of the reports commissioned by governments and agencies, such as the EU Special Advisors' Report, the Furman Report in the UK, the German ARC Amendments, and the Stigler Report – to introduce per se bans on digital platforms or companies that perform a 'regulatory function' from engaging in 'self-preferencing.' The reports, however, do not explain precisely what they mean by 'self-preferencing'. Self-preferencing is a generic expression that covers a range of different practices, for example, margin squeezing, tying and refusal to supply.

For example, keeping an indispensable asset to oneself and refusing to supply it to rivals is an example of abusive self-preferencing. But the refusal to deal in case law makes clear that it is, so far, not abusive for a dominant company to favour itself by reserving for its own use an asset that is not indispensable, but merely 'advantageous.' On the contrary, it is generally pro-competitive for companies to develop their own innovations, and use those innovations as the tools to compete against one another. As Advocate General Jacobs explained in *Bronner*:

> *it is generally pro-competitive and in the interest of consumers to allow a company to retain for its own use facilities which it has developed for the purpose of its business . . . Thus the mere fact that by retaining a facility for its own use a dominant undertaking retains an advantage over a competitor cannot justify requiring access to it".*

This makes sense, for several reasons. First, there is an inherent contradiction between competition and duties to supply rivals; competition rules seek to encourage companies to compete vigorously against each other, not cooperate. Second, a duty to supply interferes with fundamental rights to dispose of property and to conduct business. Third, duties to supply reduce incentives to innovate for both the supplying company and the company that receives supply. Fourth, in industries with fast innovation cycles, a duty to integrate rivals into constantly-evolving technologies may delay – or preclude – new developments.

The Courts, therefore, only allow interference with the freedom to contract in exceptional and limited circumstances. By contrast, we are concerned that a per se ban on self-preferencing could have several unintended consequences: hampering vertical integration, which is presumptively efficient; eliminating synergies; and leading to delayed or mothballed product improvements.

Consider Google's introduction of a thumbnail map on its results pages in response to location-based queries: the UK High Court held that this was 'pro-competitive' and an 'indisputable' product improvement. Not only was Google's introduction of the thumbnail map not likely to harm competition, but the conduct was also objectively justified. This was because showing rival maps would have degraded the overall quality of Google's search services, for example, via delays in returning results. Under the contemplated presumptions against self-preferencing, however, companies would have to ask themselves before launching this type of improvement whether they could prove the negative (i.e., that it would not lead to long-run exclusionary effects). That appears to be a difficult threshold to cross before launch.

Accordingly, we believe we should be looking at measures that make a real improvement to consumer welfare and avoid chilling innovation and investment. Neat-sounding slogans – such as a presumptive and generic ban on self-preferencing – can prove harmful in practice.

As a recent CMA report into competition and regulation recognised, 'greater regulation is – on average – associated with less competition. For instance, countries with lower levels of product market regulation tend to have more competitive markets and enjoy higher rates of productivity and economic growth.' Similarly, in her speech on 'Remembering Regulatory Misadventure', FTC Commissioner Wilson recalled that attempts to prescribe 'fairness', 'non-discrimination', and 'reasonable and just' prices in the airline and railroad industries led to distortions of competition and restricted output. Removing these regulations 'significantly reduced consumer prices and increased output, generating billions of dollars in consumer surplus'. This is not to say that regulation is not desirable for objectives other than fostering competition, but regulation to encourage competition is likely to result in outcomes that any pro-competition and pro-innovation regime should avoid.

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 eighth edition of *The Dominance and Monopolies Review*. We look forward to seeing what the next year holds.

Maurits Dolmans and Henry Mostyn
Cleary Gottlieb Steen & Hamilton LLP
London
June 2020

Chapter 14

GREECE

Marina Androulakakis, Tania Patsalia and Vangelis Kalogiannis[1]

I INTRODUCTION

In Greece, Law 3959/2011 on the 'Protection of Free Competition' (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 in:

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;

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

The Hellenic Competition Commission (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.[2]

The HCC has issued acts on procedural issues that apply also in investigations for abuse of dominance cases, such as rules on procedure for the acceptance of commitments (HCC decision No. 588/2014), the treatment of confidential information (HCC Notice of 13 January 2015) and access to file (HCC Rules of Internal Procedure and Management of 16 January 2013).

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 & Post Commission (EETT) is pursuant to the provisions of Act 4070/2012 on electronic

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

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.

II YEAR IN REVIEW

i HCC

In 2019, the HCC issued three decisions on abuse of dominance cases, of which two concerned adoption of interim measures,[3] and the third decision was an acceptance of the commitments decision.[4]

During 2012-2017, the HCC issued 11 decisions on abuse of dominance,[5] whereas in 2018 the authority rendered a notable decision against Elais-Unilever Hellas for alleged implementation of abusive practices at retail and wholesale level in the margarine market resulting in the imposition of a fine of approximately €8.7million.[6]

ELMIN Bauxite SA

By virtue of Decision 690/2019, HCC adopted, on 30 July 2019, interim measures against ELMIN Bauxite SA (ELMIN), a company active in the market for the production and trade of bauxite, for having allegedly abused its (super)dominant position, being the only producer-supplier of bauxite in Greece. The above decision was issued on HCC's own initiative and following its *ex officio* investigation, upon receipt of a complaint by Mytilineos SA (Mytilineos), an entity active in the metalworking industry.

The case involved the aimed sudden and substantial reduction by ELMIN of the bauxite (including bauxite derivatives) quantities that it supplied to Mytilineos. According to HCC, ELMIN's behaviour, entailed the danger of excluding certain suppliers/products from the relevant market, thus restricting intra-brand competition. In addition, the increase of prices was deemed probable as a result of ELMIN's anti-competitive behaviour to the consumers' harm.

In particular, the HCC found that ELMIN's behaviour constituted: (1) an unjustified refusal to sell; (2) an indirect imposition of unfair sales conditions; and (3) a limitation to the production of bauxite to the detriment of consumers.

3 Pursuant to Paragraph 5 of Article 25 of the Greek Competition Act, the HCC has the power of taking interim measures, on its own initiative or following a request of the Minister of Finance (currently Minister of Development and Investments), where an infringement of Articles 1 (prohibited collusion), 2 (abuse of dominance) and 11 (regulation of sectors of the economy) of Greek Competition Act or Articles 101 and 102 of the TFEU is suspected and there is an urgent need to prevent an imminent risk of irreparable harm to the public interest. In case of failure to comply with the imposition of interim measures, the HCC has the power to impose a fine of up to €10,000 for each day of non-compliance with its interim decision. Interim decisions may be appealed before the Athens Administrative Court of Appeals. The HCC cannot adopt interim measures to safeguard individual interests, but said jurisdiction lies with civil courts.

4 According to Article 25 Paragraph 6 of the Greek Competition Act, the HCC may accept commitments if it considers, during relevant investigation carried out either at own initiative or following a request by the Minister of Finance or a complaint, that there is a likelihood of infringement of Articles 1 and 2 of the Greek Competition Act or Articles 101 and 102 of the TFEU.

5 OECD Peer Reviews of Competition Law and Policy, GREECE, 2018, p. 40.

6 HCC Decision 663/2018.

Procedurally-wise, the HCC ruled that the conditions for the imposition of interim measures, under applicable rules, were met since: (1) it was deemed probable that ELMIN's practices constituted an abuse of dominance under the Greek Competition Act and TFEU due to latter's unjustified refusal to sell to Mytilineos, combined with the indirect imposition of unfair sales terms and limitation to the production of bauxite, which could not have been objectively justified; and that (2) there was an urgent need to prevent an imminent danger of irreparable damage to the public interest, taking into account factors such as difficulty of finding alternative sources of supply, even from entities active in the downstream markets, and insecurity in ensuring required quantities, thus putting at risk both the activity of Mytilineos, as well as the smooth supply of the market.

In light of the above, the HCC ordered ELMIN to: (1) immediately supply Mytilineos with the required quantities of bauxite for 2019 as it did with respective bauxite quantities in 2018, in order to prevent the probable systemic risk in the relevant markets; and (2) to enter into negotiations with Mytilineos for concluding a bauxite supply agreement under specific conditions. Finally, the HCC also threatened ELMIN with a fine of €8,000 per day of non-compliance to its interim decision.

ARGOS[7]

Another interim measures ruling was issued by the HCC against the company ARGOS in the market of distribution of print press products following a request of the Minister of Finance (currently Minister of Development and Investments).

In particular, the HCC unanimously found that the infringement of abusive exploitation of dominant position was likely on behalf of ARGOS and constituted more precisely: (1) an unreasonable refusal to sell, by unilaterally imposing the terms of its new commercial policy, without informing and negotiating with the publishing companies on the above terms in a timely manner; (2) an indirect imposition of unreasonable trading conditions in the context of the enforcement of its new commercial policy; (3) a discriminatory treatment with respect to its policy for the return of the deducted insurance contributions, considering that it treated third companies that were not related to it differently as it did not return the entire amount of the deducted contributions to them, as opposed to other related publishing companies (i.e., its shareholders); and (4) an unreasonable refusal to sell, by refusing to distribute print press products.

Against that background, the HCC ordered ARGOS to: (1) revoke its new commercial policy for all publishing companies; (2) cease its unreasonable refusal to distribute the print press products to the publishing companies; (3) return the entire amount of the insurance contributions to all publishing companies; and (4) enter into negotiations with all publishing companies to form a new commercial/pricing policy. The HCC also threatened ARGOS with a fine of €5,000 for each day of non-compliance with its interim measures decision.

Meanwhile, the HCC issued earlier this year its Opinion 39/2019 on the functioning of competition in the national market of press distribution. The HCC highlighted the structural weaknesses of the print press distribution market, including: (1) decline of demand for the print press products; (2) legal requirement to distribute press products throughout Greek territory; (3) particular significance of the sale of publication, especially with respect to the overall cost of ARGOS; and (4) revenue and business methods of the publishing companies,

7 The HCC decision on the matter has not been issued at the time of writing; therefore, input on the case is based on publicly available information, such as the HCC's press release of 4 June 2019.

the sale of publications (in comparison to the revenue generated from digital advertising). In this context, the HCC concluded that the above weaknesses lead to the creation of a potential 'natural monopoly' or 'essential facility' in the market at hand. In this respect, the HCC analysed the pros and cons of various measures for dealing with the above problems, the measures relating to the legal form of the distribution agency, the enhancement of the negotiating position of publishing companies, the enactment of a Code of Conduct and the classification of press distribution services as services of general economic interest.

DIAGEO[8]

By virtue of its unanimous Decision 698/2019, the HCC accepted the commitments offered by DIAGEO Hellas SA (DIAGEO), which, according to authority's preliminary analysis, was dominant in the markets of gin, scotch whisky and ReadyToDrink/Premix spirit drinks and, in particular, in the on-premises distribution channel in Greece.

The company's alleged anticompetitive practices pertained to the provision of exclusivity of pouring services (concerning unbranded demand) and of marketing and visibility services (concerning branded demand), by on premise outlets to DIAGEO. According to the HCC, the above were capable of foreclosing potential or existing competitors from access to significant part of relevant markets through the incentivisation of exclusivity by DIAGEO, bolstered by the offering of financial incentives (lump sums or rebates, or both).

In order to accommodate the HCC's concerns but without admitting infringement of competition law rules, DIAGEO proposed a set of commitments, aiming to lift exclusivity with regard to pouring (e.g., by undertaking not to enter into pouring agreements with existing or new strategically important on-premises outlets regarding a large portion of unbranded demand, nor to provide special incentives to on-premises outlets to pour brands or brand variants of DIAGEO, or both, with regard to particular types of beverages, etc.) and marketing services (e.g., undertaking that DIAGEO brands or cocktails be included in the outlet's menu and on tables would not account for more than 50 per cent of all brands or cocktails listed in respective category of menu and of all tables designated for the service of drinks in the on-premises outlets, etc.), so that every strategically important outlet and on-premises outlet would be able to offer these services in parallel. The duration of the commitments was set to five years.

Summary

Summarised information about HCC's decisions and pending cases is provided below.

Investigations of abuse of dominance pending at the HCC

Sector	Investigating authority	Conduct	Case opened
Citrus fruit sector (amidst covid-19)	HCC	Abuse of Dominance, unspecified	April 2020
Medical supplies (amidst covid-19)	HCC	Abuse of Dominance, unspecified	March 2020
Banking	HCC	Exclusionary practices in the context of provision of banking and payment services	November 2019

8 Only the HCC press release is available to date.

Sector	Investigating authority	Conduct	Case opened
Supply of fur animal food (Maviz SA)	HCC	Abuse of Dominance, unspecified	December 2019
Non-alcoholic beverages (Coca-Cola-3E Greece SA)	HCC	Abuse of Dominance, unspecified	September 2015

HCC decisions in the past year (2019) for abuse of dominance

Sector	Investigating authority	Conduct	Fine imposed
Bauxite production and trade	HCC	Refusal to sell, imposition of unfair trade conditions and restriction of production	(Decision in substance pending – only interim measures decision issued)
Printed-press distribution	HCC	Refusal to sell, imposition of unfair trade conditions and discriminatory treatment	(Decision in substance pending – only interim measures decision issued)
Gin, Scotch Whiskey and RTD/Premix spirit drinks	HCC	Exclusivity agreements	(Commitments decision not published yet – only press release)

ii Courts

In its long-awaited decision, the Council of State issued last year its decision[9] in an abuse of dominance case between the EETT and OTE, the leading telecommunications provider in Greece.

In particular, the case which had been initially brought before the EETT, following a complaint by OTE's competitor (i.e., Tellas), involved restrictions imposed by OTE in the offering of its wholesale broadband access service, which according to the EETT constituted abuse of dominance, in the form of, inter alia, price squeeze.[10] In this respect, the EETT imposed a fine of €20 million on OTE having found that OTE's offering in the wholesale broadband access sector, where the latter was dominant, did not allow its competitors to trade profitably in the downstream market of retail broadband internet access. In reaching the above conclusion, the EETT applied the reasonably efficient operator (REO) criterion.

Thereafter, OTE challenged the decision before the Athens Administrative Court of Appeals, which partially upheld the EETTs decision, insofar as it related to the price squeeze aspect of the case. The fine was also reduced by €10 million.[11] In substantiating the infringement of abusive price squeeze, the Court accepted the EETT's stance, namely that proof of existence of price squeeze is sufficient, without the need to also prove the existence of an anticompetitive effect.

The case was ultimately brought before the Council of State, where OTE claimed that the EETT had wrongfully applied the REO criterion, instead of the equally efficient operator (EEO) criterion (usually adopted by the European Commission). OTE supported, among others, that EETT failed to prove the company's intent to implement the alleged abusive pricing policy and to examine the effects of alleged abuse in the relevant market.

The Council of State upheld adoption of REO criterion by the EETT, ruling that EEO criterion could not have been applied due to OTE's refusal to provide the necessary information for this purpose to the EETT. But, referring to the *Deutsche Telekom*[12] case, the

9 Council of State Decision 860/2019.

10 EETT Decision 447/01/26.07.2007.

11 Decision No. 2193/2009 of the Athens Administrative Court of Appeals.

12 CJEU, case C-208/08P, judgment of 14 October 2010, paragraphs 250–251.

Council of State ruled that the mere existence of a pricing policy implemented by a dominant undertaking does not render such policy abusive under Article 102 TFEU, without evidence of an anticompetitive effect, which (proof), however, exists if the anticompetitive effect is related to possible barriers which pricing policy could have created for the growth of products on the retail market in end-user access services on the degree of competition in that market. The Council of State concluded that, in order to prove the abusive nature of such practice, an anticompetitive effect in the market must exist, without, however, this required to be specific. On the contrary, mere establishment of the potential existence of such anticompetitive effect, capable of excluding equally effective competitors, would appear sufficient.

In light of the above, the Council of State overturned OTE's application for cassation, insofar as it challenged the abuse of dominance aspect of the case.

III MARKET DEFINITION AND MARKET POWER

The Greek Competition Act does not provide for 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' costumers and ultimately consumers are factors that are taken into account. 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 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.[13] 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.[14]

It is settled HCC case law (following the footsteps of EU case law)[15] 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 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.[16] 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.[17]

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, in order 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.[18]

ii Exclusionary abuses

Article 2 of 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*,[19] dating back in 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 TFEU. In particular, the HCC found that Athenian Brewery applied an exclusionary strategy in order 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,[20] 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,

13 HCC Decision 590/2014, *Athenian Brewery*, paragraph 239.

14 HCC Decision 581/VII/2013, *Procter & Gamble Hellas*, paragraph 262.

15 CJEU Decisions 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.

16 Decision 869/2013 of the Athens Administrative Court of Appeals, paragraph 35.

17 Athens Administrative Court of Appeals, Decision 2458/2017, paragraph 8.

18 HCC Decision 520/VI/2011, *Tasty Foods*, paragraph 174.

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

20 HCC Decision 663/2018.

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: (1) the rebates being conditional upon the achievement by the client of a quantitative target regarding products purchased by Elais-Unilever; (2) 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); (3) 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 same buyer (individual character of rebates scheme); and (4) the rebate was applied retroactively.

Another notable HCC decision involving a bundling practice includes that of *Nestle*,[21] in which the HCC found that Nestle unlawfully imposed bundling arrangements on its clients in the instant coffee retail market. Nestle 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.

Finally, as regards authorities and courts' approach on price squeeze (see the case of wholesale broadband access service) and refusal to deal (see the *Bauxite* case), see Section II.

iii Discrimination

The HCC has also dealt with a few discriminatory treatment cases in the energy sector. In its *Gas Distribution Companies*[22] case, 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 an 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[23] in the case of Public Power Corporation (PPC)/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

Recently, the Athens Administrative Court of Appeals issued its decision in the *AEPI* (i.e., Greek Company for the Protection of Intellectual Property) case.[24] 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.[25] 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.

21 HCC Decision 434/V/2009.

22 HCC Decision 516/VI/2011.

23 HCC Decision 621/2015.

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

25 HCC Decision 245/III/2003.

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 and/or Article 102 TFEU.

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 which are made binding by the HCC decision. The amount of the fine must not exceed 10 per cent of the aggregate turnover of the undertaking for the year in which the infringement ceased or, if it persists, the year preceding issuance of the HCC decision. In the case of groups of companies, the group's aggregate 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 and the economic benefit derived therefrom. If the economic benefit 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 fine of up to €10,000 per day of failure to comply with its decision.

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 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 HCC Guidelines on the calculation of fines of 12 May 2006, as supplemented in 2009, HCC determines the basic amount of the fine which, depending on the gravity and duration of the infringement, 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.

Although it did not impose any fines for abuse of dominance in 2019, the HCC has dealt with relevant cases on several occasions over the past years and has imposed high fines. In its *Athenian Brewery*[26] case, involving the implementation of anticompetitive practices aiming to exclusivity, including significant payments conditional upon exclusivity and/or the foreclosure of competitive brands, loyalty and target rebates, in the beer market for a period of over 15 years, the HCC imposed a record-setting fine of approximately €31 million.

26 HCC Decision 590/2014.

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.

As already mentioned in Section II above, the HCC has imposed behavioural measures in the context of its interim measures decisions and has also accepted commitments of a behavioural nature by the infringing undertakings in 2019.

However, as would derive from the HCC's past practice, the authority usually proceeds to the imposition of a fine, together with an order to cease and desist.

iii Structural remedies

According to the Greek Commission 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 or upon request of the Minister for Development and Investments. 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 Directorate-General for Competition (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). The DGC has recently conducted dawn raids in the banking sector (November 2019) and, more recently, in the print press distribution market (May 2020). Failure to provide information requested by the HCC, as well as obstruction of the DGC's dawn raid, entail the imposition of a fine of €15,000 up to a maximum of 1 per cent of the turnover of the undertaking concerned (meaning group turnover, if applicable). 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 report to HCC within 120 days of assignment of the case. This deadline may be extended by 60 days maximum. 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 report, the case is heard by the HCC. The HCC is not bound by the report.

Interested parties are summoned to appear before the HCC at least 45 days before the hearing and are served with the rapporteur's report 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 12 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 to prevent an imminent danger of irreparable damage to the public interest. Interim measures may be taken by the HCC either on its own initiative or following a request of the Minister for Development and Investments. In this case, HCC must reach a decision within 15 days from the submission of the request. In the context of these proceedings, the deadlines for the submission of statements of objections/addenda-rebuttal by the parties are determined by decision of the HCC chair.

Also, 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 report). The procedure for the acceptance of commitments by HCC is summarised as follows (HCC Decision 588/2014): (1) preparatory meetings with the DGC or the rapporteur handling the case, or both; (2) prioritisation and assignment of the case to a rapporteur, if not already done; (3) assessment of the intent of the offering undertaking, suitability of the case for the acceptance of commitments and adequacy of the commitments; (4) submission of commitments offer by the undertaking within 30 days of being invited to do so by the rapporteur; (5) market-testing (if considered appropriate); (6) drafting by the rapporteur of the report for the acceptance of the commitments offer; (7) service of the report to the interested parties (i.e., the undertakings under investigation and complainants) within three months of the submission of the commitments offer; (8) summoning of parties to the hearing, at least 45 days in advance; and (9) issuance of the HCC decision, by virtue of which the commitments are made binding.

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 especially interim measures decisions, these are only subject to appeal before the Athens Administrative Court of Appeals.

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.[27] Thus, it may be expected that the general Greek legislation on the matter would apply (Article 74 of 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 to 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.[28]

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/EETT's case-file. This possibility is, however, subject to certain restrictions. In particular, the Court may not order the disclosure of the following evidence until the HCC/EETT has terminated its proceedings: (1) documents and information drawn up by natural or legal persons specifically in the context of the proceedings before the HCC/EETT; (2) documents and information drawn up by the HCC/EETT and sent to the parties during their proceedings; and (3) withdrawn settlement submissions. Also, 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 a special chamber 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. The greatest difficulty that the Greek Courts are expected to face in awarding damages under Law 4529/2018 is how quantify harm.

27 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'.

28 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.

VIII FUTURE DEVELOPMENTS

The covid-19 crisis has not left competition law enforcement unaffected. The HCC has showed its vigilance in monitoring the functioning of competition in the context of the current situation. In particular, the HCC has formed a special task force, which is competent to issue guidelines addressed to undertakings and consumers on the application of competition law amidst the crisis, collect information on initiatives to be implemented by undertakings and their compatibility to competition law and to conduct investigations into potential breaches of competition rules, including abuse of dominance. Meanwhile, following numerous consumer complaints, in March 2020 the HCC sent information requests to many undertakings active in the medical supplies market and, even more recently, conducted dawn raids in the food sector.

Meanwhile, the HCC seems to have fully entered the digital era. It has recently launched sector inquiries into e-commerce and Fintech. These initiatives are indicative of HCC's intent to monitor more closely the application of competition law in the digital markets and ensure compliance in these dynamically evolving sectors.

Appendix 1

ABOUT THE AUTHORS

MARINA ANDROULAKAKIS

Bernitsas Law

Marina joined the firm in 1997 and is head of the EU, competition & antitrust department. Her practice is focused on EU, competition and antitrust law, advising national and international clients on antitrust, merger control and state aid issues, with considerable experience in cross-border and cross-section transactions, assisting clients on 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 an 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), 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.

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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 and the Hellenic Data Protection Authority. 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 the EU & competition law team and as a trainee at the European Commission, Directorate-General for Competition, Cartels Unit.

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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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