Greece: New Greek Competition Act enters into force

The new law (Law 3959/20.4.2011) (the new Act) which was adopted on 15 April and entered into force on 20 April 2011, aims at increasing the effectiveness of the Hellenic Competition Commission (HCC - the Authority), while further promoting harmonisation with EU competition law and practice.

Apart from consolidating the existing competition legislation, the new Greek Competition Act introduces a number of new provisions intended to ensure further alignment with EU procedures and decision-making practice, notably by abolishing notification requirements and/or formalities which entail a horizontal administrative burden for both companies and the Authority. The modifications include, inter alia: a) the abolition of the post-merger notification requirement regarding smaller merger & acquisitions (Article 4a of Law 703/77), b) the abolition of the notification of agreements for “mapping” purposes (Article 21 of Law 703/77), thereby achieving full harmonisation with the EU “legal exemption” regime, c) the streamlining of merger-review deadlines, reflecting more closely the corresponding provisions of Regulation 139/2004 (notably as regards the applicable Phase I and Phase II deadlines, as well as the timely submission of commitments), d) the further diversification of HCC’s investigative powers with the introduction of the sector inquiry tool, and e) the introduction of limitation periods for the imposition of fines, essentially mirroring Regulation 1/2003.

The new Act also introduces changes in the institutional framework of the HCC, with a view to increasing the effectiveness of its enforcement actions. In particular, it enhances the HCC’s ability to set strategic goals and to prioritise important cases, in light of the estimated impact of the practices in question on the functioning of effective competition, and especially on consumers. Complaints are to be assessed on the same basis (unlike the previous regime where the HCC was essentially bound to review each complaint within tight deadlines, thereby hampering its ability to select cases pursuant to sound public interest criteria). In addition, the new Act extends the general deadlines for the investigation, deliberations and issuance of decisions from six months to twelve months, in order to establish a more reasonable time-frame for the resolution of cases.

Criminal penalties (including imprisonment) for cartels become stricter, with a view to increasing the overall deterrent effect of the competition rules, while the procedure for the suspension of fines upon appeal before administrative courts is further streamlined, so that a greater proportion of the fines imposed are to be paid pending the appeal process.

Finally, new measures concern the improvement of the cooperation between the HCC and sectoral regulatory agencies, the enhancement of HCC’s powers to issue opinions on legislative proposals/regulations, the HCC’s ability to initiate external audits, as well as the HCC’s discretion to issue notices and guidelines on the implementation of the law based on corresponding EU guidelines (thus facilitating self-assessment by companies).

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