



Cyprus² is an island situated in the Eastern Mediterranean Sea South of Turkey. The location of Cyprus in the Eastern Mediterranean makes it a strategic crossroads among Europe, Asia and Africa continents and has been used by travellers in their various journeys throughout the history of Cyprus.

A former British colony, Cyprus gained its independence in 1960 following years of resistance to British rule. In 1974, Turkey launched an invasion called ‘peace-keeping operation’ with pretence to restore constitutional order, when a Greek military coup overthrew the Cyprus Government. In 1983, the Turk-held area declared itself ‘Turkish Republic of Northern Cyprus’, recognised only by Turkey.

Thirty-one years on, 36 percent of the island still remains under the invaders’ occupation in defiance of United Nations Resolutions of unequivocal substance. The Cyprus problem has become a major dispute in the sensitive Middle East. In view of Turkey’s application to join the EU, the issue has achieved greater seriousness.

In 1990, the Cyprus Government applied for a full membership in the European Communities that was completed in 2004 with the signing of the Accession Treaty.

Economy

Cyprus had a record of successful economic performance, reflected in rapid growth, full employment and external and internal stability, almost, throughout the post-independence period. The underdeveloped economy inherited from Colonial Rule in 1960, has been transformed into a modern economy, with dynamic services, industrial and agricultural sectors and advanced physical and social infrastructure. These achievements appear all the more striking, bearing in mind the severe economic and social dislocation caused by the Turkish invasion of 1974 and

PROFILE	
Population:	770 thousand
GDP (Current US\$):	11.4 billion***
Per Capita Income: (Current US\$)	12,220 (Atlas method)*** 18,360 (PPP)
Surface Area:	9,250 sq kms.***
Life Expectancy:	78.2 years**
Literacy (%):	96.8** (of ages 15 and above)
HDI Rank:	30
Sources: - World Development Indicators Database, World Bank, 2005 - Human Development Report Statistics, UNDP, 2004 (**) For the year 2002 (***) For the year 2003	

the continuing occupation of the Northern part of the Island by Turkey.

It should be noted that, due to the Turkish invasion in 1974, economic affairs in Cyprus are focused in the southern Greek area, which is controlled by the Cyprus Government.

In the past 20 years, the economy has shifted from agriculture to light manufacturing and services. The service sector, including tourism, contributes 76.2 percent to the GDP and employs 72.0 percent of the labour force. Industry and construction contribute 19.3 percent and employ 22.7 percent of labour. Manufactured goods account for approximately 58.0 percent of domestic exports. Agriculture and mining is responsible for 4.4 percent of GDP and 5.3 percent of the labour force. Potatoes and citrus are the principal export crops.

Cyprus’s accession as a full member to the EU as of May 01, 2004, has been an important milestone in its recent

* Original paper submitted in October 2005. Revised in December 2005

1 All opinions expressed in this document are personal to the author and do not bind the institution she belongs to.

2 Some of the information in this introduction has been compiled from the CIA World Factbook, <http://www.cia.gov/cia/publications/factbook/geos/yi.html>

history. This is evident in the economic outlook of 2005, which remains bright. Growth is expected to remain strong (around 4.0 percent), with low unemployment (less than 4.0 percent), and low inflation (around 2.3 percent).

Competition Evolution and Environment³

The success of Cyprus economy is attributed, *inter alia*, to the adoption of a market oriented economic system, the pursuance of sound macroeconomic policies by the Government, as well as the existence of dynamic and more flexible entrepreneurial community and highly educated labour force.

The close relationship established between Cyprus and the EC with the signing of the 1987 customs union agreement, coupled with other developments in Europe and the EC, encouraged the Government of Cyprus to apply for full membership in the European Community in 1990.

On November 26, 1993, substantive talks between the Commission and the Government of Cyprus started and continued until 1995 when they were successfully completed. The substantive talks, covered a broad range of issues and their primary objective was to help the Cypriot authorities familiarise themselves with the *acquis communautaire* and help Cyprus harmonise its legislation and policies with those of the Union.

During 1990-2004, Cyprus made rigorous attempts to harmonise its laws, policies and institutional structure with the EU's *acquis communautaire*. The process of harmonisation of Cypriot standards with those of the EU was completed by the beginning of 2004 and on May 01, 2004, Cyprus became a full member of the EU.

An important chapter of the harmonisation process was the adoption of a competition regime. In this process, in 1989 Cyprus adopted EC legislation on competition policy in order to harmonise its laws and policies with those of the EU. Since then the competition regime and the internal structure of the Commission for the Protection of Competition (CPC), Cyprus' competition authority, underwent a lot changes and transformations, as per the guidelines of the EU.

All these changes that took place since the middle of 2000 had a major impact in all aspects and levels of implementation and enforcement of the national competition policy. The progress achieved through 2000 up to 2003, in the field of competition, was grandiose, which was confirmed by the EU with the closure of the chapter of competition policy on June 10, 2002.

With Cyprus' accession to the EU, various sectors of the economy are being liberalised, which to this day functioned

in a fully protected from competition environment. Therefore, in the years to come, competition rules and policies are expected to play an important role in order to create and sustain a healthy and competitive market.

In addition to the competition law, the following laws exist that regulate the market:

- The doctrine of restraint of trade (Section 27 of the Contract Law, Cap 149); and
- Industry and sector-specific provisions in such areas as telecommunications, electricity, postal services etc.

Competition Law

The Protection of Competition Law (207/89) as amended (the Competition Law), along with the Control of Concentrations between Undertakings Law 22(I)/99 constitute the foundations of competition policy in Cyprus. The former provides for the enforcement of Sections 4 and 6, which are the equivalents to Articles 81 and 82 of the EC Treaty.

All secondary legislation of the EC (Block Exemptions) now forms part of Cyprus' national legislation, bringing its competition laws and policies in line with the *acquis*. In the light of the Council Regulation on the implementation of rules laid down in articles 81 and 82 of the EC Treaty, which replaces Regulation 17/62 and establishes a new legal system for more effective enforcement of these articles through greater involvement of national bodies, the national legislation will undergo a lot of amendments.

The main elements of the Regulation are abolition of the notification and authorisation system, strengthened application of articles 81 and 82 at national level, creation of a network of competition authorities and the introduction of new types of Committee decisions.

Recently, the CPC, along with the Ministry of Commerce, Industry and Tourism, proposed for the replacement of the Protection of Competition Law 207/89, with a new law, that will accommodate Regulation 1/2003 and also modernise the provisions of the existing Law, by filing the gaps and drafting more flexible and transparent procedural rules.

The draft competition legislation is currently under legal vetting and some proposed amendments are:

- I. The abolition of the national notification system for companies to obtain negative certification or individual exemption and as a result, agreements that fulfill the conditions of section 5(1) of Law 207/89 are legally valid and enforceable without the intervention of an administrative decision;

3 Website of Commission for the Protection of Competition www.competition.gov.cy and the Annual Reports

Anticompetitive Business Practices

Box 67.1: Anticompetitive Business Practice: Infringement Found

Helios Airways filed a complaint against Cyprus Airways Ltd, alleging that the incentive schemes of the travel agents offered by Cyprus Airways resulted in the distortion of competition.

The CPC, after having taken into consideration all the facts and evidences, unanimously decided that *prima facie* there has been an infringement of section 6(1), (2) (a), (b), (c) of Law 207/89 by Cyprus Airways.

CPC held a meeting, during which the Cyprus Airways disclosed the particulars of the incentive schemes for the travel agents, which was in violation of Law 207/89 and specifically of sections 6(1), (2) (a) (b) (c) and

stated that their intentions were to comply with the instructions of the CPC.

The CPC after considering all the information and documents decided:

(a) To judge Cyprus Airways with every leniency, taking into account the fact that they immediately brought to an end the infringement and, therefore, only issued a prohibition decision.

(b) In case where it is noted that the said infringement continues, then the C.P.C. would impose a penalty of CY 3.000 pounds for every day the infringement continues.

Source: Annual Report 2004 of Commission for Protection of Competition

II. Improvement and enhancement of the current powers of the CPC, like the extended powers in decision-making, investigations of business premises and non-business premises; and

III. The Cartel Immunity Programme and Reduction of a Fine that came into force on the 1st of February 2003 and which sets out the basis of the leniency policy in situations where an undertaking – that is part of an illegal cartel in accordance with Section 4 of Law 207/89 – can obtain total immunity or reduction of fines, will become part of the national law.

In addition, pursuant to article 15 of Regulation 1/2003 which provides for the principle of *amicus curiae*, the Supreme Court is planning to issue a Procedural Order to accommodate these provisions, enabling the CPC to submit written or oral observations to the national courts on issues relating to the application of articles 81 and 82 of the EC Treaty.

Institution and its Competencies

In view of the fact that Cyprus has always been a market oriented economy, administrative structures and practices were, more or less, already in place, which allowed for the implementation of the relevant *acquis* and provided for the required co-operation with the EC.

The Commission for the Protection of Competition (CPC), established in 1990 with the enactment of the Protection of Competition Law 207/89, aims in maintaining an environment of free and healthy competition in the market, by ensuring that any anticompetitive practices by companies do not distort competition.

The CPC is assisted in enforcing the law by its Service, which is the investigative body. The Service was earlier

under the auspices of the Ministry of Commerce, Industry and Tourism. The enactment of the Law 155(I)/00 in 2000 gave the Service independent body status, as per the instructions of the EU, in accordance with harmonisation guidelines. With the same legislation the position of the Chairman of the Commission became a full time one.

The prohibition of agreements, decisions and concerted practices between undertakings (Section 4) and the abusive conducts by undertakings holding a dominant position (Section 6) constitute the two founding policies of the Protection of Competition Law 207/89, as amended. Although both prohibition policies aim at the same result, they differ, since Section 4 of the Law prohibits agreements, decisions or practices between undertakings, in contrast with Section 6, by which unilateral conducts of undertakings are prohibited. Along with the above competencies, the CPC has the authority to grant both negative clearance and individual exemption on the basis of Section 16 and 18 of the Law.

The Control of Concentration between Enterprises Law 22(I)/1999 as amended (henceforth Law 22(I)/99), forms the rules by which reorganisation by companies in the form of concentrations are controlled in order to ensure that they do not result in the distortion of the structure of the market and thus, damaging competition. The scope of application of Law 22(I)/99 covers only concentrations of major importance, as interpreted in Section 2 of Law 22(I)/99, in connection with the geographical dimension of the activities of the companies involved and the quantitative thresholds. Law 22(I)/99 provides also the possibility of concentration to be declared concentrations of major importance through a Reasoned Order of the Minister of Commerce, Industry and Tourism.

Following the 2000 amendments in the Law, the CPC has assumed a very powerful role. As per the amendments, public undertakings and undertakings for which the State has granted special or exclusive rights are no longer excluded from the application of competition rules. The effect of this amendment has been to grant the Commission extensive powers in regulating such undertakings and in a number of occasions it has imposed heavy fines on such undertakings for failing to change their ways and comply with their competition obligations⁴.

In the light of its competencies, the CPC cooperates with other national bodies, namely:

- The Service for the Protection of Consumers of the Ministry of Commerce, Industry and Tourism;
- The Regulator of Telecommunication and Postal Services;
- The Regulator of Energy and Gas; and
- The Consumers Protection Association, an independent body representing the consumer interests.

Sectoral Regulation

*Telecommunications Sector*⁵

The responsible body for the regulation of the telecommunication sector is the Office of the Commissioner for Electronic Communications and Postal Services.

In April 2001, the House of Representatives enacted the ‘*Commissioner of Telecommunications and Posts (Appointment, Powers, Establishment and Operation of the Office) Law of 2001*’ which for the first time established the *Office of the Commissioner for Telecommunications and Postal Regulation (OCTPR)*. Following this, the House of Representatives enacted the ‘*Telecommunications and Postal Services Regulation Law of 2002*’ (*Law 19(I)/2002*) on March 22, 2002.

This Law remained in force until April 29, 2004, whereby it was replaced by the *Law Regulating Electronic Communications and Postal Services of 2004, Law 112(I)/2004* which was adopted for the purpose of harmonising the Cyprus legislation regarding electronic communications with the 2002 European telecommunications regulatory package. The Law constitutes the framework for regulating Electronic Communications networks and services provided by undertakings within the territory of the Republic of Cyprus. It establishes the conditions for regulating networks and facilities required for the application of a harmonised regulatory framework throughout the European Community with the purpose of providing assistance in the convergence of the fields of electronic communications, information technology and electronic resources.

The main changes that the new regulatory framework brought about are:

- The simplification of the licensing regime and the homogeneity introduced to the conditions and obligations;
- The *ex ante* regulation of a defined number of markets (retail and wholesale), according to the provisions of the Law; and
- The right of appeal for operator covers both merits and process.

The Cyprus Telecommunications Authority (CYTA), until recently enjoyed a statutory monopoly in the electronic telecommunication services sector. In February 2003, after the issue and the publication of the relevant order, CYTA was designated as organisation with significant power in a number of telecommunication markets – voice telephony, fixed public networks, mobile telephony, mobile public networks, interconnection market and leased lines markets. Within the framework of its obligation, which emanated from its designation as organisation with significant market power, in 2003 CYTA submitted a Reference Interconnection Offer, RIO 2003. This was later amended in 2004 and the one in force is RIO 2005.

According to the Office of Electronic Communications and Postal Services statistics, it appears that up to the end of 2004, competition in the telecommunications sector on the basis of active providers increased mainly in the voice telephony services, data services, internet services, satellite services and other voice telephony services. Of the fifty-

Box 67.2: Telecom Company in the Dock

The CPC carried out an autonomous investigation against CYTA in 2002 and concluded that CYTA has abused its dominant position in the telecommunications market by infringing Section 6 of the competition law. The infringement was caused by CYTA’s charging of abusive prices in the provision of telecommunications services, especially in the provision of international communications and in the provision of mobile telephony which were the most profitable for CYTA.

Although these services were subsidising other non-profitable services, CYTA was still able to garner huge profits. This decision created a legal right for every consumer to enable them to claim damages for the harm suffered as a result of the CYTA’s transgression. Any person can apply for an injunction order to prevent the continuation of the infringement by CYTA.

Source: <http://www.ldlaw.com.cy/services/telecoms.htm>

⁴ <http://www.ldlaw.com.cy/services/competition.htm>

⁵ see Annual Report of the OCTPR for 2003 and 2004

one (51) authorised companies for the provision of voice telephony services, twenty (20) are engaged in activities for data services, sixteen (16) for internet services, four (4) for satellite services and fifteen (15) for other voice telephony services.

Although, due to the liberalisation process more companies started operating in the field of telecommunication, i.e mobile, Internet, fixed telephone, CYTA still remains the super dominant company in most of the above services, with more than 96 percent of the market share.

Postal Sector

The *Law Regulating Electronic Communications and Postal Services of 2004, Law 112(I)/2004* has also, accommodated the provisions of the Directive 2002/39/EC, which aims at the full liberalisation of the postal services market by the year 2009, with years 2003 and 2006 as intermediate phases. The main regulatory input of the Directive, is concerned with the reduction of the limits of the exclusive service by the universal postal service provider.

The postal sector in the national and international express courier services is liberalised and during 2004 the market share of the Cyprus Post, based on the annual turnover was 63 percent, while at the same time the nine alternative providers share the rest 37 percent of the market share. The biggest alternative postal service provider is DHL Cyprus Ltd, which is also active in the international express courier services.

Energy Sector⁶

The Law for the Regulation of the Electricity Market Law (L. 122(I)/2003) was approved by the House of Representatives in July 2003. The Law fulfils all requirements of Directive 96/92/EC concerning common rules for the internal market in electricity. Following the publication of the Law, the Cyprus Energy regulatory Authority (CERA) was established. The CERA is a strong, independent body whose sphere of competence covers the electricity and the gas market.

According to the Law, the CERA is responsible for the development of a level playing field for all market participants and prospective competitors, or potential entrants into the energy market, the avoidance of any abuse of dominant position, the protection of the environment and of consumers and the settlement of disputes

Under the new regime, the Electricity Authority of Cyprus (EAC) remains the owner of the transmission and the distribution network, but an independent transmission system operator has been appointed for ensuring non-discriminatory access to the network. EAC is an independent, non-profit making semi-government corporation established under the Electricity Development Law CAP 171 of 1952 in order to exercise and perform functions relating to the generation, transmission and distribution of electric energy in Cyprus.

Competition in Regulated Industries

Following the amendment of Cyprus' Competition Law in June 2000, it has become possible to report to the Cyprus

Box 67.3: CPC Acts Against CYTA on a Notification from the Telecom Regulator

In July 2004, the Office of the Commissioner of Telecommunications and Postal Regulations (hereinafter OCECPR) notified to the CPC a possible infringement of section 6 of the Law by CYTA. The OCECPR claimed that CYTA was liable for price squeezing in the market for the provision of internet services putting the company TelePassport Telecommunications Ltd at a disadvantageous position. TelePassport had complained about the unprofitable fee charged by CYTA for providing access to the internet. Later another telecom operator, Callsat Telecom Ltd also filed a similar complaint against CYTA for abuse of its dominant position.

The CPC, after examining the letter of the OCECPR, gave instructions to its Service to carry out an investigation of CYTA for a possible infringement of section 6 of the Law. In October 2004, based on the

report of the Service, CPC held that CYTA's acts were prima facie an infringement of the Law, in particular it constituted an abuse of dominant position.

In May 2005, after considering the relevant report of the Service and also the written and the oral views of CYTA and the interested parties, CPC decided that CYTA's acts towards its competitors (alternate providers) constituted an abuse of its dominant position in the market for the provision of internet services, in violation of section 6 of the Law. Specifically, the CPC decided that CYTA was liable for price squeezing since it provided to its competitors a product/service at a high price, whereas it provided to its customers the final product at the retail market at a lower price. Also, the price that CYTA charged to its competitors was found by the CPC as excessive.

Source: *Decision of the Commission for Protection of Competition (Case No. 11.17.25/2004)*

6 <http://www.ldlaw.com.cy/services/electricity.htm>

Competition Committee “agreements or acts of the state” and “agreements or practices of enterprises where activities are specially regulated by the law”⁷.

As a result of this amendment, the CPC now has the jurisdiction to regulate the practices of semi-governmental organisations such as the Electricity Authority and the Telecommunications Authority and of many other boards, which have been established by law and which for many years, had a legal monopoly on the Cyprus market.

One of related cases is that of the milk and dairy product producers against the Milk Marketing Board, an organisation regulating the production and trading of milk products in Cyprus and has been fixing their prices, quantities and terms of sale. In its decision, the Competition Committee decided that the Milk Marketing Board was abusing its monopolistic position in the market and imposed a fine of 50.000 pounds CY, as well as an obligation to avoid repeating the abuse in the future.

Consumer Protection⁸

The CPC aims at prohibiting anticompetitive practices by firms or companies that affect the balance of competition and, consequently, the interest of the consumer. On the other hand, the Competition and Consumer Protection Service of the Ministry of Industry, Commerce and Tourism, is responsible for the health and safety of the consumers regarding goods and services. This division looks into all issues, which may affect the well being of consumers, regardless of whether any provisions of competition law are infringed. Its aim is to improve the quality of life of the citizens.

The Service is assigned with the enforcement of several pieces of legislation regarding the health and safety, and with the task of market surveillance in order to spot products that may endanger the health and safety of consumers.

Even more, the protection of the economic interests of the consumers is of great importance to the Service and this becomes evident by the various pieces of legislation currently enforced in the country. Briefly, there are pieces of legislation that refer to the correct description of goods and or services (characteristics, price, weight, size, etc) as this facilitates the consumer by providing him/her with all the necessary information in order to exercise the right of choice.

⁷ <http://www.lclaw.com.cy/services/competition.htm>

⁸ http://www.mcit.gov.cy/mcit/mcit.nsf/dmlprotection_en/dmlprotection_en?OpenDocument

Cyprus Consumers' Association (CCA) plays an important role in supporting Cypriot consumers and ensuring that the consumer voice is heard at all levels of the system. It is a non-political, independent, non-governmental consumers' organisation. Since its establishment in 1973, the Association has been very active in promoting and safeguarding consumer interests in Cyprus. The CCA monitors the effective implementation of the legislation and regulations regarding consumer protection and consumer rights in Cyprus

Concluding Observations and Future Scenario

Regulation 1/2003 represents a firm step in the direction of stronger and more efficient enforcement of EC competition rules. The multi-faceted cooperation between the CPC, the national authorities and the national courts will ensure that the new enforcement system produces coherent enforcement.

It remains to be seen how the national legislation, which is currently under reform in order to accommodate the new provisions, will implement and effectively apply the EC competition rules. It is expected that the new law will fully accommodate the provisions of Regulation 1/2003.

The CPC has opted to concentrate on the following areas:

- The completion of the legislative implementation and the amendment of the Protection of Competition Law in accordance with the EC Regulation 1/2003 and the preparation of the Service of the CPC for the proper and effective application of the *acquis communautaire*;
- The development of the advisory role of the CPC, with *inter alia*, the promotion of awareness to the undertakings and the consumers, specifically in relation to the new legal system that will be created at a national and EU level, through the organisation of seminars and conferences held by the Service or together with other organisations;
- The provision of all the necessary training to the officers of the Services that will equip them with the knowledge to carry out their duties in a professional and competent way; and
- The assessment of the competitiveness in specific sectors of the Cyprus market and the conduct of own initiative investigations.

Suggested Reading

Annual Report of the OCTPR for 2003 and 2004

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On her return to Cyprus, she worked as a trainee lawyer and in 2001 she successfully obtained the practicing license and became a member of the Bar Association in Cyprus. At the beginning of 2002, she signed one-year fixed-term contract with the Cyprus Government, to work as a legal consultant of the Commission for the Protection of Competition.

In December 2002, she was appointed as one of the permanent staff of the Service of the Commission for the Protection of Competition. During 2003, she worked for a period of three months at the Unit European Competition Network of the D.G Competition and on returning to Cyprus, she was appointed as one of the responsible personnel dealing with issues related with the European Competition Network. She also deals with issues concerning the International Competition Network and case handling.