



Greece is located in Southern Europe, bordering the Aegean, Ionian and the Mediterranean Sea. To the north lie Albania¹, Former Yugoslav Republic of Macedonia (FYROM) and Bulgaria. To the northeast is Turkey.

Greece is a country with a particularly rich and ancient history. Its contemporary history begins at 1829, when it achieved its independence from the Ottoman Empire and a constitutional monarchy was established.

In World War II, Greece was first invaded by Italy (1940) and subsequently occupied by Germany (1941-44). After the occupation ended, the rule reverted to monarchy and Greece acquired its definite frontiers (with the annexation of the Dodecanese islands). A military dictatorship in 1967 suspended many political liberties and forced the king to flee the country. The 1974 democratic elections and a referendum created a parliamentary republic and abolished the Monarchy. Greece joined the European Community or EC in 1981; it became the 12th member of the Euro zone in 2001.

Economy

Greece has a small but open economy with the state continuing to play a major role, despite an ongoing privatisation programme. The public sector accounts for about 40 percent of GDP. In recent years industry has contributed 21-22 percent of GDP. Services make up the largest growing sector of the Hellenic economy, accounting for about 70 percent of GDP in 2002².

Greece is a major beneficiary of EU aid, equal to about 3.3 percent of annual GDP. Hellenic GDP is estimated to have grown by well above four percent in both 2003 and 2004, thus outperforming not only the EU, but also the OECD average by a substantial margin for the fourth year running, reflecting namely the sharp decline in nominal

PROFILE	
Population:	11.1 million***
GDP (Current US\$):	203.4 billion***
Per Capita Income: (Current US\$)	16,610 (Atlas method)*** 22,000 (PPP)**
Surface Area:	132 thousand sq km
Life Expectancy:	78.3 years (at birth years)**
Literacy (%):	91.0 (of ages 15 and above)**
HDI Rank:	24***
<i>Sources:</i>	
- World Development Indicators Database, World Bank, 2005	
- Human Development Report Statistics, UNDP, 2005	
(**) For the year 2003	
(***) For the year 2004	

and real interest rates after the entry in European Economic and Monetary Union (EMU), an investment boom and infrastructure upgrades for the 2004 Athens Olympic Games. However, the pace of economic expansion is projected to moderate the following years (nonetheless will remain strong around three percent), reflecting, first, a return of domestic demand to more sustainable growth and, second, the adverse impact of higher oil prices.

Despite the ongoing relatively strong growth, Greece has failed to meet the EU's Growth and Stability Pact budget deficit criteria of three percent of GDP since 2000; public debt, inflation, and unemployment are also above the Euro-zone average. Moreover, as a result of the weakening in the quality of its overall macroeconomic environment, driven by the budget deficit (partly linked to the Athens 2004 Olympic Games) and increasing pessimism on the part of the business community about short-term economic outlook, Greece has dropped nine places to 46 (compared to 37 in

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1 CIA World Fact Book

2 Country Briefings: Greece, Economist Intelligence Unit, 2004.

2004) in the overall ratings (in a total of 117 countries) of the Global Competitiveness Report 2005-2006³.

Evolution of Economic Policy Regime

The high rates of growth that characterised Hellenic economy in the late 1960s and early 1970s, were followed by a sharp deterioration of the economic performance in the mid-1970s. After 1974 Greece suffered declines in its GDP growth rate, ratio of investment to GDP, and productivity, and real labour costs and oil prices rose, as a result of historical, political changes and international economic turbulence. The policies followed after 1974 led the state to control some three-quarters of all business assets. Monopolies existed in many sectors-notably energy and telecommunications-and other markets were tightly regulated.

The Hellenic economy during the 1980s and 1990s made a great leap forward, moving to a period characterised by substantial nominal convergence and ultimately macroeconomic stability which enabled Greece's entry to EMU. Inflation was reduced to low single digits and real growth picked up sharply. In addition, fiscal deficits were deduced dramatically and long rates declined rapidly to the level corresponding European rates.

Genuine reforms were launched in the 1990s, which made important changes to financial and labour market regulations; as well as some product market liberalisation and initial steps in State reform. In the mid-1990s, a package of EU-related reforms boosted growth and investment. Referring specifically to the case of Greece, the OECD states that in the mid-1990s, for the first time in post-war history, Hellenic strategies for economic development shifted markedly to relying on market forces rather than on State-managed growth. In 1998, the government began a programme of privatisation as part of its bid to join the EMU and has since reduced its stake substantially.

Since then, Greece has made progress in converging with the rest of its EU partners. Market liberalisation has proceeded much further in the financial sector. While liberalisation of the telecommunications sector has progressed quite rapidly (services and prices have improved after reform), energy reforms are lagging behind (e.g. in gas and electricity sectors).

Greece continues to lag behind other OECD countries in regulatory reforms and still suffers from the high costs of poor regulation in some areas and too little pro-market regulation in others. Long traditions of political intervention and protection of economic actors are difficult to reverse, but a pro-reform consensus seems to be emerging.

The major challenges over the next few years will be: to systematically unwind the extensive State involvement in the economy, to discourage the habit of rent-seeking, and to ensure the sustainability of strong growth at low rates of inflation through the establishment of regulatory policy regimes and institutions that support investment, innovation, and competition.

Another key challenge for Greece concerns competition and the business environment. Paradoxically, Greece has both a high rate of self-employment and a low rate of firm creation, by international comparison. Registering and licensing a business in Greece is complex and very time consuming, possibly discouraging foreign investors. Considerable effort is given recently to alter the situation; the reduction of administrative burden on start-ups and the simplification of regulation and taxation systems are set as high priority.

Competition Law: Evolution and Environment

Competition law was first adopted in Greece in 1977 (Act 703/1977 *on the control of Monopolies and Oligopolies and the Protection of Free Competition*). The legislative framework on competition issues before 1977, as in most of the countries worldwide, was nearly non-existent. The only law regulating competition issues (unfair competition) was 146/14 with very limited scope. The issue of competition gained a bigger importance in the context of European integration. Community competition rules set out in Articles 85 to 94 (currently articles 81 to 89), of the Treaty of the EU appear to be the guidelines.

Hellenic laws changed and were formed on the basis of these articles. Specifically, article 1 of the Act is similar to article 81 (ex article 85) of the Treaty, and article 2 similar to article 82 (ex article 86 of the Treaty). Responsible for preventing all anticompetitive practices and applying competition rules was initially the Ministry of Commerce and now the Hellenic Competition Commission (hereinafter HCC). There was no tradition for public policy in dealing with competition issues for a long period.

Since 1977, the competition law has been amended several times, by Acts 1934/1991, 2000/1991, 2296/1995, 2741/1999, 2837/2000 and recently by law 3373/2005.

Practices covered by law 703/1977 (as amended)

a) Anticompetitive Agreements and Abuse of Dominance

Article 1 of the amended Act 703/1977, drafted in accordance with article 81 of the EC Treaty, declares null and void agreements between undertakings "*which have as their object or effect the prevention, restriction or distortion of competition...*", subject to the exemption set

³ World Economic Forum-Growth Competitiveness Report 2005-2006

out in paragraph 3 of article 1. Article 2 is similar to article 82 of the EC Treaty, and prohibits the abuse of dominant position held by firm(s).

b) Concentrations (M&As)

Initially, the Act 703/1977 did not introduce any systematic control of market concentration, because this would have had a negative impact on the efforts for increasing the size of Hellenic firms. In addition, at the time there was no systematic control of market concentrations at the EU level. Such a sophisticated system of control by an ex-ante intervention was introduced in Greece in 1995, with the law 2296/1995. The Competition Commission was given the power to scrutinise concentrations in order to establish whether they lead to a dominant position.

According to article 4b of the amended law 703/1977, every concentration between undertakings shall be notified to the Competition Commission, where the combined aggregate turnover of all the undertakings concerned, within the world market, is at least equal to the amount of one hundred and fifty million (150.000.000) Euros and the aggregate national turnover of each of at least two of the undertakings concerned exceeds the amount of fifteen million (15.000.000) Euros in the national market.

In addition, article 4a of the amended law provides that a concentration is subject to a post-merger filing to the HCC within a month from its completion, if: a) the market share of the products or services concerned in the national market

or a substantial part of it is at least 10 percent of the total turnover of the substitutable products or services, or b) the combined aggregate turnover of the parties in Greece amounts to at least €15mn.

c) Exploitation of Economically Dependent Relationships

In 1991, the *Law 2000/91* introduced the concept of ‘exploitation of economically dependent relationships’.⁴ This was considered as an extension to the outlaw of abuses of dominant position for cases where the dominant position appears on a bilateral level. It is a point that might concern cooperative agreements, and especially cases where the participants of the agreement have a user-producer relationship and one of the parties has a dominant position over the second party, which does not have an alternative solution.

Institutional Set up

The competent Body for the enforcement of rules found in the 703/1977 Act is the HCC, established in 1977. The HCC is an Independent Administrative Authority (law 2996/95), supervised by the Minister of Development. It has its own organisation and personnel, and is financially autonomous (law 2837/00). In addition, with the last amendment of the act 703/1977 (act 3373/2005), the HCC acquired a separate legal personality. The HCC consists of the President of the Commission and 10 members (and their surrogates). Its main duty is to issue decisions on competition related cases, following a report by the Directorate General for Competition. The HCC may

Box 76.1: Hellenic Composers Union vs Copyright Society: AEPI

The case concerned the complaint, of six composers and the ‘Hellenic Composers’ Union’ against the copyright society AEPI, for abuse of dominant position in the relevant market of the management of intellectual property rights of Hellenic and foreign composers. The AEPI was founded by the Minister of National Economy, and was approved by the Minister of Culture, as the Hellenic copyright society that aims to protect the IPRs of the creators of musical plays (composers, lyric writers, etc).

The Hellenic Competition Commission (HCC) found a number of AEPI rules as restrictive and practices to constitute an abuse of its dominant position. Since AEPI acted as licensor, not only of performing rights, but also of the mechanical right to record music, it required a transfer of exclusive rights of all aspects of copyright in the territories in which AEPI operates. This obligatory total assignment of both the performing and the mechanical rights was found to be an abusive rule, in breach of the Law. The fees on the mechanical rights were also characterised as being extremely high and therefore abusive.

In view of the above, the HCC, by its ruling, obliged AEPI to modify both its existing and its future contracts with its members, in order to make clear that the members (composers etc) are not obliged to assign to AEPI all of their rights, but have the choice to assign only some categories of their rights, whilst AEPI may only deny this partial assignment by providing full and specific justification.

The HCC also fixed AEPI’s maximum fee to 15 percent, calculated on the amount collected by AEPI for the mechanical rights of its members and recommended AEPI to publish, in its website, all kinds of fees that it imposes on its members. AEPI was imposed a fine of €500,000 for the infringement of the Law and, in particular, for its unjustified refusal to only accept the assignment of some intellectual property rights (IPRs). The HCC has furthermore threatened to impose, on AEPI, a penalty payment amounting up to €5,000 per day of non-compliance with its ruling.

⁴ This provision was abolished in 2000, and re-entered into force in 2005.

Box 76.2: Association of Pharmacists vs Glaxowellcome⁵

The case concerned the complaint that was brought to the Hellenic Competition Commission (HCC) by 16 Associations of Pharmacists against the pharmaceutical company 'Glaxowellcome' (now 'Glaxosmithkline Gsk'). The complainants were co-operatives that supplied medicines, along with their member-pharmacies, throughout the Hellenic territory; and also bought some medicines from Glaxowellcome (GSK), amongst other products.

'GSK' is a pharmaceutical company, which is the exclusive licensee for the circulation of pharmaceutical products and the agent and subsidiary of the parent company 'GlaxoSmithkline'. 'GSK' is *ex lege* responsible for the regular supply of its products; distribution and availability of the parent company's patent medicines at the pharmacies, as well as maintaining a three-month reserve stock.

In Greece, as well as in the majority of the EU Member States, the prices of medicines are regulated by the State. Due to the fact that the prices in Greece are amongst the lowest in Europe, traders have an incentive to export to those Member States, where the prices are higher.

According to the complainants' allegations that were accepted by the HCC, 'GSK' decided unilaterally to cut back on the imports of the medicines in Greece, to bypass the wholesalers and to undertake itself the supply of pharmacies, in order to restrain the parallel exports of the pharmaceutical products in question.

The HCC ruled that the high market shares, in combination with the fact that certain of the medicines are irreplaceable and the fact that 'GSK' alone supplies the entirety of the Hellenic market with these medicines, as well as the given economic robustness of company and the great demand of the company's products in the European market, lead to the conclusion that 'Gsk' holds a dominant position in the national market.

The HCC ruled that an infringement of Articles 82 of the EC Treaty and 2 of the Act 703/77 was most likely probable to occur and that the continuing export restrictions of medicines that were imposed by the parent company 'GSK', in combination with its refusal (of 'GSK') to satisfy the orders of the applicants, threatened to provoke an imminent and incurable damage to the public interest, for the prevention of which there was an urgent need for the granting of interim measures.

According to the rationale above, the Commission obliged 'GSK' to provisionally execute, and until the issue of its final decision, the orders of pharmacists' associations and wholesale pharmaceutical stores for the medicines, without quantitative restrictions; and expanded, by majority vote, this interim measure to all the pharmacists' associations and wholesale pharmaceutical stores. The Commission has furthermore threatened, by majority vote, to impose on 'GSK' a penalty payment amounting up to Drs one million per each day of non-compliance with its ruling.

impose fines and commitments to undertakings, which infringe the provisions of competition law. Its decisions may be challenged at the Athens Administrative Court of Appeals.

The work of the HCC is assisted by the Directorate General for Competition (DGC). Its main duties are to carry out investigations relating to anticompetitive practices either *ex officio* or following a complaint, to examine mergers and anticompetitive practices notified to it, prepare the cases for hearing before the HCC, including drafting the relevant reports and proposals. The DGC also monitors the implementation of the HCC's decisions, supervises the enforcement of the relevant courts' decisions and keeps the registers of notifications.

The law also recognises the authority of the Ministers of Finance and Commerce to exempt, from anti-trust regulations, merger cases that are considered to lead to important positive economic outcomes. According to

article 4c§3 of the amended Act, A concentration that has been prohibited by the Hellenic Competition Commission, pursuant to paragraph 1, may be approved by a specifically justified decision of the Ministers of Economy and Finance and of Development ..., where the concentration in question presents advantages of general economic nature that counterbalance the resulting restriction of competition, or it is regarded as being indispensable for a more important public and general social interest, especially where it contributes to the modernisation and rationalisation of production and economy, the attraction of investments, the strengthening of competitiveness in the European and International market and the creation of new employment positions. This has only occurred twice since the adoption of competition legislation in Greece.

Overall assessment

In the overall, the anti-trust framework (legal basis and public actions) was basically non-existent until the late 1970s. In line with the regulations at the EU level, there

⁵ This was an interim decision and the final decision will be issued within this year (2006).

were a few changes in the 1980s and 1990s. A more robust legal competition framework was introduced in 1995. One of the main objectives being to promote innovation, the development stage was strongly emphasised, despite any possible implications on competition.

The main interest from a policy perspective was to improve firms' competitiveness through research collaboration that might promote the creation of new products or services, as well as new processes. Few amendments to the competition law were made in 2000 and the main objectives were twofold. First, the effective enforcement of the competition law and, secondly, the strengthening of the Competition Commission's institutional, as well as its independent, functioning.

Finally, with the last amendment of the Competition Act in 2005, additional powers were given to the HCC. In conformity with the EC Council Regulation 1/2003, the main scope of the amendments is that the Hellenic Competition Commission can fully and efficiently carry out the implementation of the provisions of articles 81 and 82 of the EC Treaty and actively participate in the European Competition Network. The introduction of a leniency programme is also provided. Furthermore, the number of officials employed by the Directorate General for Competition has been drastically increased over the last two years. In total 12 legal and 17 economic experts have been appointed, increasing the total number of officials from 43 to 72.

Sectoral Regulation

Regulatory reforms in Greece began later than in many countries, but Greece has now launched itself on the road to market liberalisation. Today, the Hellenic Government is moving further and faster on regulatory and other structural reforms than at any time in the post-war period. Though most regulatory reforms are very recent, a few are already contributing to the country's economic success. Good progress has been made, particularly in such areas as telecommunications, the tax system and public administration, and benefits are beginning to appear.

Telecommunications Sector

Greece reformed its telecommunications sector later than most OECD countries. Nevertheless, competition in the telecommunications sector has developed substantially, based on a transparent and neutral regulatory framework, which has been developed since 2000. The result has been increased choices for the consumer and a sizable reduction in telecommunications costs, as portrayed by the reduction of the Communications Consumer Price Index from 99.6 in 1999 to 77.3 in 2004 (a reduction of 22.4 percent over the five-year period, whereas during the same period the general Consumer Price Index increased by 17.8 percent).

Hellenic Telecommunications & Post Commission (EETT) is the National Regulatory Authority, which supervises and

regulates the telecommunications as well as the postal services market. EETT's institutional purpose is to promote the development of the two sectors, to ensure the proper operation of the relevant market in the context of sound competition, and to provide for the protection of the interests of the end-users. EETT is an independent self-funded decision-making body.

Established in 1992 by *Act 2075*, under the name the National Telecommunications Commission (EET), EET actually commenced its operation in summer 1995. It was primarily responsible for the supervision of the liberalised telecommunications market. Moreover, since the adoption of *Act 2668/98*, which provides for the organisation and operation of the postal services sector, EET was entrusted with the supervision and regulation of the postal services market and was renamed as National Telecommunications and Post Commission (EETT). EETT's supervising and regulatory role was further reinforced by *Act 2867/2000*, which also entrusted EETT with competition powers in the telecommunications market.

Energy Sector

The Hellenic energy market is still dominated by highly integrated State-owned enterprises; Public Power Corporation (PPC) in the electricity sector, and Hellenic Public Gas Corporation in the gas sector. Following market liberalisation, the generation and distribution/retailing operations of PPC are being unbundled and an independent transmission system operator (HTSO) has been established. Currently, a large share of HTSO is held by the PPC, which remains the sole electricity generator. Hellenic oil markets were liberalised in 1992 and the retail sector has become competitive as a result.

Greece has made progress in establishing the institutions necessary to underpin market liberalisation. The Regulatory Authority for Energy is an independent regulator with jurisdiction in the electricity, gas and oil sectors; but the Ministry of Development retains primary responsibility for regulatory matters. The IEA recommends that the functions of the Energy Administration and the Regulatory Authority for Energy should be more clearly separated: regulatory decisions need to be taken by the regulator and policy decisions by the Ministry.

More attention must be paid to market access in the electricity sector to open the markets to new entrants. Resources and regulatory powers must be placed in a regulatory body, independent of the Ministry and the regulated companies.

Banking & Finance Sector

The National Bank of Greece (NBG), the oldest and largest among Hellenic banks, heads the strongest financial group in the country. It boasts a dynamic profile, internationally, particularly in South-eastern Europe and the Eastern Mediterranean. NBG is a financial institution legally

operating under the Hellenic and the EU banking legislation, specifically the provisions, as currently applicable, of *Law 2076/92*, whereby the second banking directive *89/646/EEC* was incorporated into Hellenic law.

The Bank of Greece is responsible for the supervision of the banking system and for monitoring developments to ensure the soundness of the system. To aid the latter, in recent years, the Bank has undertaken a number of measures.

Interface between Competition and Regulatory Authorities

According to Article 8f of the Act 703/77, as in force, “The Competition Commission co-operates with authorities, which regulate and monitor the functioning of specific sectors of economy. In the context of its competences, and following a request of such authorities, it expresses opinions on competition policy issues in these sectors”.

In addition, article 5 of the amended law provides that following a request by the Minister of Development or *ex officio*, the Hellenic Competition Commission examines a specific sector of the Hellenic economy and if it confirms that in the said sector there are no conditions of effective competition ...it may, by virtue of a justified decision, take any absolutely indispensable measure of conduct or structure for the creation of conditions of effective competition in that specific sector of the economy. Furthermore the article provides with the specific requirements for the issuance of such a decision (deadlines, public consultation with the interested parties etc).

Consumer Protection

The determination and application of policy on the protection of health, security and economic interests of consumers in Greece is the primary duty of the Department of Consumer Affairs (part of the Ministry of Development), which was re-established in March 2004 with the appointment of the Secretary General.

In the context of its competences, the Department of Consumer Affairs, on the one hand participates in the bodies of the EU and the OECD, is responsible for the adoption of the relevant directives for the incorporation of these directives in national law. On the other hand, it resolves problems faced by consumers in the context of their transactions with private and public companies.

Specifically, the practices and actions of the Department of Consumer Affairs aim to:

- a) Resolve conflicts that arise between consumers and suppliers and compensate the damage suffered by consumers as a result of unlawful acts of suppliers. In such cases, the Department of Consumer Affairs intervenes directly, or brings the case to other

competent authorities, with a view to cease the supplier’s infringement of law.

- b) Supervise the application of law relating to consumer protection and impose fines, where there is infringement of the law.
- c) Inform and educate the citizens on consumer protection issues, through its website (www.efpolis.gr), advertising campaigns, press releases, and organisation of seminars.

Furthermore, consumer protection associations play an active role in the protection of consumers in Greece. They inform, consult, represent consumers in courts, and they also have the right to bring cases to courts in accordance with the relevant legal framework.

The National Council of Consumers represents the views of consumers and is an advisory body of the Ministry of Development. The views of the consumers are also represented by the Committee for the Protection of Consumers from Public Enterprises and Organisations. The Committee issues proposals and recommendations to public enterprises and organisations with the aim to improve their products and services, and ensure that the rights of the consumers are respected. The state has also established organisations for the out-of-court settlement of consumer disputes both on a national and on an international level, which become increasingly appealing to consumers, due to the low cost and the rapidity of the procedure. These organisations include:

- The Hellenic Ombudsman, which is an independent authority, entrusted with the task to resolve disputes that arise between the suppliers and the consumers or associations of consumers, with the aim to reach a friendly settlement between the parties.
- The Committees for friendly settlement set up in every prefecture of the country, in order to resolve out-of-court disputes that occur between suppliers and consumers or associations of consumers. These committees are being supervised by the Ombudsman.
- The European Consumer Centre (ECC-NET), which operates under the auspices of the Department of Consumer Affairs, and is a part of the network of similar organisations that operate in every Member State of the EU. The ECC deals exclusively with complains related with transactions of EU citizens in Greece, and transactions of Hellenic citizens in other EU Member States. The aim of the ECC is to offer assistance in the process of out-of-court settlement of disputes between suppliers and consumers, situated in different EU Member States.

Concluding Observations and Future Scenario

Wider structural reforms, including regulatory reform and liberalisation, as well as combating corruption and bureaucracy and promoting transparent capital markets, are absolutely necessary in order to create a competitive

environment, which would both complement and support privatisation efforts. Reducing red tape and regulatory uncertainties for firms should boost potential growth. Distortions and disincentives in public sector performance continue to reduce the certainty and efficiency of the general regulatory environment. Many concrete steps can be taken to raise potential output growth. The focus should be on comprehensive reforms that create vigorous market competition through regulatory and institutional reforms.

In addition, the OECD goes on to state more specific recommendations for the continuation of regulatory reform in Greece:

- Further improvement in public governance in Greece is needed for the success of regulatory reform. A tradition within the public service of mistrust of market forces has led to over-regulation and rent seeking. Basic reforms of the Hellenic civil service are needed to create the capacity for an efficient and transparent regulatory system, including strengthening the professionalism and accountability of the public administration, and improving policy co-ordination;
- Greece is pursuing market opening policies which are important for a small country dependent on trade, but which has a poor record in attracting foreign investment. Greece has integrated several of the OECD's efficient regulation principles into domestic regulations schemes but has fallen short on transparency in rulemaking,

avoidance of unnecessary trade restrictiveness, and application of competition principles. The discretionary character of public consultation has reduced market confidence among foreign parties, whilst the one-stop shop for foreign investors is of uncertain value. Public procurement is formally open but, in practice, problems still arise. That said, a draft public procurement regulation is being prepared and will be soon ratified by the Hellenic Parliament; and

- Greece has taken many of the steps needed to improve the performance of its electricity sector, but the package is not yet complete.

Greece is starting to develop a 'competition culture'. The awareness of the benefits of competitive markets and competition policy has been significantly raised in the past few years, due to some important decisions of the HCC. The HCC believes that the improvement of its efficiency will be the best means of competition advocacy. It also has to be pointed out, that the number of competition officials has been increased significantly in the last couple of years. As a consequence, the HCC is able to review more particular markets and has already issued, or is in the process of issuing a number of important decisions. All these highlight the fact that competition policy is currently among the top priorities of the Greek Government.

Box 76.3: Price Fixing at Retail Level

In 2001, the Hellenic government introduced a law, which prohibited retail sales below cost, and entered a "gentlemen's agreement" with the retailers and the suppliers that the retail prices should not be increased following the adoption of the law.

With a view of applying the law and the gentlemen's agreement, the managing board of the Hellenic Supermarkets' Association ("SESME") decided to draw up a list in order to set the amount of discounts that should be applied by the suppliers. This fixed discount, which was set for each supplier separately, was to be incorporated in the invoices that the suppliers issued for their sales to the supermarkets – members of SESME. Then, it sent the list to all of its members and the suppliers and asked for its implementation. SESME sought the uniform application of the list, meaning that each supplier was expected to provide the same discount to all the retailers. Additionally, it asked from its members not to accept any invoices from the suppliers that do not incorporate the fixed discount.

Furthermore, seven of the biggest Hellenic supermarkets (some of them were also members of SESME's managing board) arranged and participated in two meetings in February and April 2004 respectively. Major suppliers were also invited to participate in these meetings.

The topics discussed in the meetings were: First, how to cope with competition from big multinational supermarkets (namely Carrefour), which according to them, sell goods below cost and second, how to cope with competition from big multinational discount stores (namely Lidl and Plus), which lately appear to increase their market share in the Hellenic market.

During the two meetings, the representatives of the seven supermarkets (with a total market share in the Hellenic market above 50 percent) took a common view asking the suppliers not to supply goods to the abovementioned multinational supermarkets and discount stores (which were not invited to the meeting). The retailers also threatened to exclude from their shelves any supplier who would not cooperate.

The Hellenic Competition Commission took the view that the recommendation issued by SESME, which set a fixed amount of discount for each supplier amounted to an agreement fixing minimum prices. Further, such a decision does not allow retailers to freely negotiate any rebates with the suppliers and to set prices on the basis of their own operating costs, profits or any other parameters of their capital structure.

As a result, SESME's list leads to the "reward" of supermarkets, which are not willing to compete in the relevant market and the "punishment" of supermarkets, which would like to pass on to the consumers any benefit arising from the improvement of the capital structure of their business

In addition, the Commission established that the meetings of seven retailers led to the exchange of information about their commercial policy, to the adoption of a common policy regarding the discount products and the cooperation among the participants as to the application of the above common policy. Consequently, the Commission

established the existence of coordination among the participant retailers, which aimed to distort and restrict competition in the relevant market.

The Hellenic Competition Commission imposed a €15mn fine on SESME (that is 0.28 percent of the total turnover of SESMEs members). Further, the Commission imposed separate additional fines on each of the seven retailers for the concerted practice, which amounts to 0.08 percent of the total turnover of each participant except for TROFINO for which the fine amounts to 0.03 percent of its total turnover.

Suggested Readings

1. Science and Technology Policy in Greece. Policy Initiatives for R&D Cooperation, Ioanna Kastelli.
2. The Progress of Regulatory Reform in Greece, Athens Economics.
3. Annual Report on Competition Policy Developments in Greece, 2003, *OECD*.
4. Greek Economy: Report 02/05, Foundation for Economic and Industrial Research (IOBE).
5. Economic Survey of Greece, 2005, *OECD*.

✦ Drug Makers Win Trade Case

Greek Competition Commission has cleared GlaxoSmithKline of abuse of dominance after pharmaceutical wholesalers challenged the company's quota system. On September 05, 2006, the Commission ruled that normal competitive provisions do not apply in the European pharmaceutical market because national governments set prices. According to the Commission, GlaxoSmithKline has the right to limit supplies of drugs to protect its commercial interests. Drug prices vary across the continent, making pharmaceutical companies vulnerable to parallel importers.

GlaxoSmithKline began limiting drug sales to wholesalers in Greece, in 2000. It supplied a specified quantity to meet the needs of patients plus a buffer amount. In 2003, wholesalers reported GlaxoSmithKline to Greek Competition Commission. The Commission referred the case to the European Court of Justice, which issued an opinion in favour of GlaxoSmithKline in 2004. In June 2006, the Court ruled it did not have jurisdiction to rule on the complaints and sent the case back to the Commission. According to the Court, the Commission cannot refer questions for a preliminary ruling since it is neither a tribunal nor a court.

(Source: Global Competition Review, 15.09.06)