



Press release

**Terms, conditions and procedure for the acceptance of commitments
by the Hellenic Competition Commission**

The Hellenic Competition Commission (HCC) adopted Decision No. 588/2014 which defines the terms, conditions and the procedure for the acceptance of commitments offered by undertakings to cease possible infringements of articles 1 and 2 of L. 3959/2011 or 101 and 102 TFEU.

The HCC's Decision:

- a) Optimizes the current administrative practice, focusing on accelerating the procedure and making it more efficient. This is possible when interested undertakings signal their interest in discussing commitments at the earliest possible stage of the investigation.
- b) Ensures that the most appropriate sanction and/or consequence are chosen in terms of public interest and competition policy. To this effect the Decision determines the cases where commitments are appropriate, based on the nature of the infringement, the characteristics of the market and the anticipated benefit, whilst considering the sanctionary and deterrent effect of imposing fines, and adopts criteria for the commencement of the procedure of evaluating and accepting, or not accepting, the proposed commitments.
- c) Introduces a procedure of consultation on the proposed commitments, aiming to address the competition concerns in full and in the most efficient way. This procedure, if considered purposeful, may take various forms, or a combination of such forms, such as telephone interviews with representatives of undertakings or their associations or a public consultation.
- d) Offers guidelines to undertakings on the procedure that will be followed, the relevant time frames, as well as the terms and conditions for accepting commitments.

The HCC's Decision was based on EU practice, the HCC's experience on accepting commitments in crucial and/or rapidly evolving sectors of the national economy (eg energy, satellite pay-TV), as well as national and EU jurisprudence on the Commission's wide discretionary power to commence the procedure and accept commitments voluntarily offered by undertakings.

Briefly, according to the Decision:

Criteria for commencement of the procedure and acceptance of commitments:

1. The HCC enjoys wide discretionary power to decide on the commencement of the procedure for evaluating and accepting, or not accepting, commitments proposed by the interested undertakings

2. The interested undertakings may propose commitments in any case involving possible infringements of articles 1 and/or 2 of L. 3959/2011

The HCC considers commitments appropriate in cases where the competition concerns:

- a) are readily identifiable
- b) are fully addressed by the commitments offered and no new concerns emerge
- c) may be efficiently resolved and within a short period of time

The HCC will not accept commitments:

- a) in cases involving serious restrictions of competition
- b) in cases involving serious abuse of dominance
- c) in horizontal agreements falling within the leniency program

3. Interested undertakings may propose commitments at any time during the course of an investigation of a case by the HCC.

The HCC considers that commitments are appropriate where they contribute to saving resources of the HCC and improving the efficiency of the procedure and encourages undertakings to signal their interest in discussing commitments as early as possible.

4. The HCC does not consider commitments appropriate when the undertakings involved have already received a Statement of Objections.

5. The procedure for evaluating commitments commences if :

- a) The undertaking proposing commitments demonstrates a genuine willingness to propose commitments, which will fully and effectively address the competition concerns.
- b) The case at hand is appropriate for accepting commitments.
- c) The nature and characteristics of the commitments adequately address the competition concerns.

Procedure:

The stages of the procedure that will be followed are set out in an Annex to the Decision. The main points are as follows :

- Preliminary meetings with the Directorate General and/or the HCC Rapporteur at any time during the course of an investigation
- Evaluation of the criteria for commencement of the procedure and invitation to interested undertakings to submit final proposal.
- Market consultation on commitments.
- Notification of Statement of Objections on the acceptance of the final proposal of commitments and hearing of interested undertakings and complainant before the HCC.
- HCC decision rendering the commitments binding.

The full text of the decision (in Greek) is available at :

<http://www.epant.gr/content.php?Lang=gr&id=363>