

Newsletter (Athens, 3rd December 2015)

Record fine imposed on a single undertaking by the Hellenic Competition Commission in an abuse of dominance case (the Greek beer case)

The Hellenic Competition Commission (HCC), has confirmed a record fine against Athenian Brewery S.A., a wholly-owned subsidiary of Heineken NV in the high-profile and long-awaited case on abuse of dominance in the beer market in Greece.

The Plenary Session of the Hellenic Competition Commission unanimously ruled that Athenian Brewery S.A., which is mainly active on the market of production and distribution of beer, had abused its dominant position contrary to Article 2 of the Greek Competition Act and Article 102 TFEU, and imposed a record fine of €31.451.211. This is the biggest ever fine imposed by the Hellenic Competition Commission upon a single undertaking for breach of Greek and EU competition rules.

According to the HCC's Press Release, *"the dominant company Athenian Brewery S.A. has adopted and implemented a single and targeted policy that sought to exclude its competitors from the on-trade consumption market (e.g. HORECA chains and other retail outlets) and to limit their growth possibilities, over a period of fifteen years. To achieve this objective, Athenian Brewery S.A. employed various commercial practices aimed at exclusivity, including significant payments conditional upon exclusivity and/or the foreclosure of competitive brands, loyalty and target rebates. Furthermore, Athenian Brewery S.A. was found to have engaged in restrictive practices at the wholesale level, by providing wholesalers with significant economic motives that promote exclusivity and by exercising pressure on them not to trade or introduce competing products."*

Apart from the fine, the HCC requires Athenian Brewery S.A. to cease the infringement and introduce *"written contracts with amended terms, so as to avoid a repeat infringement"*.

Ballas, Pelecanos & Associates LPC

Gregory Pelecanos, Senior Partner and Dr. Andrew Themelis, Associate, members of the Antitrust Litigation Team at **Ballas, Pelecanos & Associates LPC**, advised Macedonian – Thrace Brewery S.A., the sole third party intervenor, during the investigation and represented Macedonian – Thrace Brewery S.A. at the Hearing before the Hellenic Competition Commission.

Ballas, Pelecanos & Associates LPC, is a leading business law firm based in Athens, Greece, providing a wide range of specialized legal services to both domestic and international clients.

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