



...with *Ioannis Lianos*

In this edition of CPI Talks we have the pleasure of speaking to Ioannis Lianos, president of the Hellenic Competition Commission (“HCC”).

Thank you, Mr. Lianos, for taking this time to talk to CPI.

1. How has the HCC dealt with the COVID-19 pandemic, and are there any learning experiences that you would like to share?

Definitely, the pandemic has been an important challenge. The first important issue that we had to consider was to maintain the functioning of the HCC during this difficult period.

First, we had to very quickly make the necessary investments to ensure that we could move to teleworking. I think we managed to do that very quickly, and we have been among the first public authorities in Greece, to put in place teleworking for almost all of our staff. That also included the meetings of the board of the HCC. We also had to put in place the necessary changes in our legislation and internal regulations so as to be able to have these meetings of the board, in particular for merger cases, but also for antitrust cases, through teleconferencing.

Also, we had to deal with the market situation, which was drastically changing with this supply and demand shock occurring. So, we had to devise mechanisms to somehow limit the competition law problems that this could create. We were the first authority that issued a recommendation with regards to maximum resale price maintenance, inspiring the rest of the ICN and other commissions to issue a joint statement that mentioned this as a possibility.

We also created a specific website that provided information to companies and citizens about the different competition law issues that emerged. It listed the various initiatives that competition authorities around the world were taking to deal with the crisis, as well as what companies around the world were doing to deal with the crisis. We put in place a helpdesk in order to provide information to anyone who wanted to see if they could cooperate, if the specific type of actions that they were envisioning were compatible with competition law.

To a certain extent, the pandemic provided us with the opportunity to somehow move to a more digital HCC. We put in place a system of digital services for consumers and citizens, so they could place a complaint through electronic means or follow their complaints and individual cases. We created an in-house platform – the HCC economic intelligence and data analytics platform – that is actually a quite unique system which collects and harvests information from all major supermarkets about the thousands of products every day, as well as other types of data that is available publicly.

For instance, this includes data from local markets in terms of fresh products, and data coming out of the e-fuels database, which includes the price of fuels across the country. So, all this data is now collected to the HCC’s central platform, and this platform will have various dashboards that enable us to very quickly analyze this data and see market tendencies. Also, we put in place, in cooperation with a number of economists, screening tools to help us identify situations where we might need to have more information from the specific companies and where are somehow red flags about possible anti-competitive behavior.

This system has been in place for a few months, and it operates very well. It provides us with a very good understanding of market tendencies, and we are expanding it to include public procurements, so as to be able to screen for bid rigging type, as well as adding new products to take advantage of our interactions with price comparison websites, etc.

This also gave us the opportunity to put in place a whistleblower system through our platform, and we have seen quite considerable advantages to this system. The leniency policy in Greece hasn't really functioned very well, although it has been there for some time. Because the market is pretty small, everyone knows everyone so it's pretty difficult in this context for a leniency policy to work. The fact that we had the pandemic and the fact that we have been thinking more digitally enabled us to put in place this anonymous whistleblower information platform, and that has been in place for a few months now.

That has led us to some interesting cases that could open through information that was actually provided to us through this whistleblower platform. So, in a way, the crisis has been a major challenge for us, but also an opportunity to change. I think it created a culture of change with the staff at the authority, so some things that would have required more time for people to get acquainted to and organize had to be done very, very quickly. And we can now reap the benefits of this digitalization as our processes have been streamlined.

There is more transparency in the way the authority works, and we have a good basis to increase this reliance on digital means, in particular, in the context of the IT forensic type of work that authorities need to develop a bit further.

So, with regards to that, we put in place a IT forensic unit. We are now proceeding to the recruitment of a Chief Technology Officer and a team of data scientists that will help us use artificial intelligence tools, deep learning, and machine learning in our cases, and we have also procured software that we use.

It's a quite advanced software platform that we use to augment the capacity of our staff in analyzing big data, and quite important sources of information we collect in downgrades, for instance. Let me also add that the Greek authority has been one of the few that proceeded to downgrade during the periods of the crisis. Also, I mean, the last couple of months we have proceeded with a number of downgrades, and I think that's very important. I mean, always respecting having specific protocols and respecting actually the public health requirements that are needed for protection for both of our staff, but also of a company's staff that we are investigating.

I think this was extremely important for us to continue to pursue, because it's very important to keep a little bit of the deterrent effects of a competition authority during the period of crisis. It was part of the strategy that we developed for whenever we had a window of opportunity because we're not in lockdown. For instance, we already have organized a down rate that could help us progress an investigation, and also provide a message to the market that we're still here and we're taking our role very seriously. These were a summary of some of the challenges and opportunities that we had to deal with during the time of the pandemic and we're still dealing with them actually.

2. The HCC has clearly faced numerous challenges of late, yet these challenges also present opportunities for achievements. Are there any particular achievements you would like to mention?

One of the major achievements we had is that when I joined the authority, we had quite a lot of old cases. The average age of cases when I joined was around eight years, and we had cases that had been at the authority for almost 20 years. There was a huge backlog and this was a major problem.

Very quickly, we put in place a new organization with a specific task force or staff that focused on dealing with this backlog of cases. Now, the average age of our case is less than two years, so we managed to go from eight years to two years in basically 12 months. We finished more than 130 cases, some of which actually moved to a second stage and were investigated after by the board.

I think we managed very quickly in a year to become relevant again in terms of the timeliness of our enforcement. We are in the process of finalizing in terms of settlements or possible remedies and not fines. Obviously, this will be decided by the board, in cases that started basically a few months ago. This is really, I think, an achievement we're only able to have because of the work that has been done by the staff of the authority; the huge work that the staff of the authority with an important commitment to finalize old cases.

But, of course, there are not just old cases, but also new ones. I think we started a strategy of enforcing competition much more systematically and with a specific priority program. The authority, since 2020, every year there's a discussion based on information about the economics of the various sectors and the priorities of the authority, so we immediately prioritize some sectors of the economy and act by bringing cases.

We had a very important investigation that started with regards to banks. Almost a couple of months after I joined, we did the biggest downgrade ever of the authority to all the systemic banks. This investigation is still in process, so we are continuing, and obviously it will be finalized, I hope, soon. We invested hugely in staff as well as IT and software, specific software, to enable us to assess all the data that we're collecting in the context of that investigation.

We also finalized a sector inquiry for supermarkets. This sector inquiry started many years ago, I think it was in 2012. In 2019, we arrived, and it wasn't complete and actually not much had been done.

We moved very quickly to finalize this sector inquiry by structure, and also by the model of sector inquiries. A little bit like in the UK, we have the market investigation reference, by having an interim report and having a process of public consultation. This is very important for the authority to interact and to get this public consultation, and the final report was published and also included some proposals and remedies.

We then started a sector inquiry on e-commerce, and the interim report has been released. This is the first time that the e-commerce, or just digital commerce, was investigated by the competition authority, and the first time there's been such a quite broad analysis of e-commerce, in particular for products, by a public authority in Greece.

We also started two regulatory interventions, one in the context of the press distribution monopoly that we have, which raises quite interesting issues of obviously polycentric competition law. And secondly, in the context of the construction industry, which are to my knowledge, the first sector investigations which deal with the common ownership issue.

In that context, we also organized a conference on common ownership in cooperation with a journal in the competition law and economics. We adopted, most recently, a fine of 1.1 million euro for an abuse of dominance case in the gas appliances market. We have already dealt with some interesting practices, probably the first time these practices have been dealt with, by the company Diageo in the market for drinks in bars and in restaurants, etc.

We also commissioned a report in the context of our e-commerce market investigation. Preliminarily, it was in our investigation, a report on the situation of mobile data prices in Greece. It was the first time an authority had commissioned a report about this issue, because obviously there are problems in this market. Greece has quite high prices compared to other European countries, or also other OECD countries.

Most recently, we started a market investigation reference inquiry in the context of the healthcare sector and health insurance. Part of that inquiry is to analyze the changes that occur in this industry. Of course, there are local aspects in terms of concentration, but there are also very interestingly technological aspects. For instance, the use of data. The fact that we see now insurance and healthcare becoming part of the same value chain through this use of data and the development of personalized medicine. Aspects which, to my knowledge, haven't been investigated by another competition authority so far. We would like to somehow to develop this in the next few months in the context of a major structural change that we are seeing is happening in the Greek market.

In addition, I can announce that the authority will initiate another sector inquiry; a market investigation reference that has been decided by the board and it will be out next week. It is on waste management and recycling. We think this forms part of our major initiative on sustainable development and competition law. This has been a major issue that we have been investigating in cooperation also with other competition authorities like the Dutch competition authority. We published a discussion paper in September 2020, we organized a major international conference on this topic with participation of high officials from the European Commission and other national competition authorities. We commissioned, with the Dutch competition authority, a joint technical report by environmental economists and IO economists, so the first time that these two groups have been put together to think about the way sustainable development might be degraded, competition analysis, and the metrics that we can actually use.

Finally, most recently published a few days ago, the Sandbox Proposal for sustainable development that the HCC has put in place. This is a proposal that changes the way we conceive the role of competition authorities. We think that in the context of our advocacy efforts, in particular in small markets like Greece where we have a number of small and medium firms that face considerable problems to somehow get funding from banks, the banking system, or out of the investors for their green position.

We think it's very important to use any possible way to reduce the legal uncertainty that these may have in the context of engaging in a corporate initiative that might face problems from a competition perspective. So we think it's very important for competition authorities to clarify the situation, and to assist somehow these companies, in particular where they develop some innovative model, or project. We also think it's very important for competition authorities not to intervene after the fact where the market has tipped and actually, we cannot really do much, but before the fact so that we can avoid problems that might emerge in the future.

To a certain extent, by helping companies see the possible competition problems that might emerge, and providing them more clarity about our way of thinking, we help them projects in a way that could be compatible with competition law, but obviously promote sustainable development because it's obviously something we very much care about. I think these are some of the highlights of our enforcement and more generally actions in the last 21 months.

3. The HCC has adopted numerous initiatives in the past months. Can you advise other authorities on how to adapt more efficient processes and implement initiatives in a timely manner?

It's not an individual task, it's a joint task. I think the staff here were fantastic. They were very committed during the pandemic to the authority. Even if they have suffered because of the economic crisis and quite considerable pay cuts in the last two years, despite that fact, they have been very active. We have also been very lucky to cooperate with a number of experts, economists, lawyers, and technology experts from major universities in Greece, but also from abroad that believed in our efforts and helped us with very minimal cost compared to what we would pay in the market there.

They have been a little altruist in their way of helping us to develop these different projects, but I think, for us, it was very important to change the institutional structure of the authority. This is something I haven't mentioned. We changed completely the institutional structure of the authority, we moved from a system where we had the separation of lawyers and economists in different directories, to a mixed directory system where we have directories on the basis of sectors of the economy. Mixed directors where there's a lot of interaction and interdisciplinarity, we want really to focus on that. We put in place a very advanced program for training staff in data science, econometrics, and we brought very wonderful colleagues from the universities. Mostly recently, we had Richard Whish, we had Pablo Ibanez Colomo, and we had Alexandre de Streele who came actually and provided us with training, as well as Greek colleagues. And also, we have been at the same time working on a change of our legislation.

We submitted a new bill. The law proposal which has principally the objective first to transpose directive 2019/1 the ECN directive, but we took this as an opportunity to change more broadly competition in Greece. This is a bill that I hope the government will put to parliament. We have to see when this will be published, but in this bill we have some major changes; quite innovative ones. The first one concerns a new provision on abuse of ecosystem power, and this is really a major future innovation for this bill, as well as among other things. The possibility to adopt no action enforcement letters for the authority in case there are some important public interest objectives that require the authority to somehow clarify the position that they have upfront, and also in order to promote sustainable development. It's part of our effort to somehow develop more the right incentives for great firms to make this green transition as soon as possible. These are some of the changes that were part of this new law, and we hope that we'll see that passing in parliament very soon.

4. What are your views on the DMA? Are there other sectors that the HCC is focusing its attention on? Among other things, you mentioned construction, e-commerce, grocery, gas, healthcare, and waste management. Is there any other sector that you think deserves scrutiny that you didn't mention before?

Of course there is, but I cannot disclose that at this time. We have a program that we put in place for certain types, and we have different tools, and I think the Greek RICLO is very good with regards to that. We have already a mock investigation tool that we haven't use for many years. The last time it was used was 2009. We launched two last year, so we have made use of that tool. We issued an opinion as well in the press distribution area, so obviously we prefer to issue opinions, and obviously we have antitrust enforcement as well as merger control.

I think it's important to make a program of first the problems and then you know the tools that you have to deal with the problems. Some problems can be dealt with in Article 101 or 102, or an equivalent national investigation. Others needs a different type of sector inquiry, or even regulatory intervention. This is something that needs to be done after you've done some form of mapping. I think this is also one of the major changes in our new law because it gives competence to the authority to do the market mapping.

We will proceed, and for this reason, we are recruiting a chief economist and team of economists to start the process of mapping the Greek markets in the model of the UK having a state of competition report, to basically develop some indexes that we can use, some criteria we can use in order to see if the market is competitive or not. What is interesting is that we are trying to link this effort of mapping to the market and look into what is the situation in markets with the development of KPIs for the competition authority.

We are the first public authority in Greece that has somehow issued KPIs. We have the obligation to develop KPIs, and these are not developed by us, but actually by an independent commission of experts, members of which are appointed by the European Commission, as well as the governor of the Bank of Greece. We try to have independence to look at our work. On the basis of our performance in these KPIs, we have the possibility at the authority to gain a bonus in terms of extra resources automatically without that being subject to ministerial discretion.

That gives us an incentive also to improve ourselves, and what I'd like to do, and we have done in the process of organizing this, is to connect these KPIs at the authority level with the KPIs we're going to have at the staff level, and in particular, the bonus system that we would like to put in place. That's partly the ambition. We have been working with the OECD Gulf with regards to developing a system that might follow the best practices on how both systems can work in the context of the public administration.

But again, that needs a lot of work in terms of pushing for these reforms. Usually, the politicians are quite tough to convince, and we need always to make the case of the importance of competition in markets, the competition law enforcement. These are not always self-explanatory, and I think there's a lot of work to be done by our community, meaning the academics and the enforcers of competition law, to develop somehow tools and let's put it like communication strategies. To convince not just the public and the companies, but also the politicians that are investing in competition and promoting competition is something which very important for welfare, both consumer as well as for general welfare and wellbeing.

5. Thank you. The above summarizes well what you think could be the future direction of antitrust enforcement, both domestically and internationally. Is there anything else you want to add?

With regards to the last issue you mentioned, it's quite important to think more carefully about the way technology could be integrated in our proceedings, and in particular AI. This is really the most important challenge we will have, and that's why we have been very supportive of the development of this new work, and new research on competition law and economics. We actually drafted the report on the basis of what we have done here at the authority in terms of developing the platform and new tools on the basis of AI to help us in our work for the British Competition and Policy Center.

We drafted what was published on our website a few months ago. We also organized a conference, which is available to see on our web page, bringing in a number of scholars that have been doing a lot of work in this area of competition and competition economics. We are now thinking with our partners to develop a hackathon to somehow participate that could provide some form of incentive for programmers that are usually not thinking about competition law to somehow focus on that, and develop the tools that the competition authorities need.

We think that this is quite important in particular in small markets like ours where we don't have a number of upper-level specialists. I think it's very important also for jurisdictions that are proven jurisdictions in terms of staff and technical capacity to have these kinds of international efforts. We will be suggesting having it in the context of an international organization that focuses on competition and policy to somehow augment their capacities and being able to develop tools to better monitor their markets.

I think that's one of the major issues we'll develop in the future, this competition analysis and economics. And the second is the challenge of sustainable development and competition law. I think this is something that will occupy us for the foreseeable future, and of course, as competition is very marginal, in what it can do to avoid the climate change or to somehow limit the possible risks of environmental degradation, but I think it can contribute to that. I think that's really something that you should have in mind.

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