



LIFE SCIENCES & HEALTHCARE PRACTICE

New price controls provisions and HCC investigation regarding price increases and shortages in healthcare materials

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A. By Legislative Act – Decree of 20.03.2020 (GG A' 68/20.03.2020), the Greek State provides further measures in order to address abusive price-speculation and shortages, in response to the coronavirus spreading risk. Inter alia, new measures are introduced in order to control profits in the sale of critical healthcare material and especially antiseptics, with price caps enforced through the provision of measures such as heavy fines and a ban on advertisement.

These measures concern the sale of any goods or services necessary for the health, nutrition, movement and safety of the consumer, in particular pharmaceutical products, personal protective equipment and personal care hygiene, such as surgical masks, antiseptic liquids and other disinfecting materials.

According to Article 21 of said Decree, the gross profit margin on antiseptics, masks and other protective equipment may not

be greater than before 1 February 2020 (an obligation applying for a maximum of six months from the entry into force of said Act).

The General Secretariat of Commerce and Consumer Protection of the Ministry of Development and Investment shall be competent for the implementation of the measure, and will have access to data, documentation and information from any source in order to monitor any infringement, whereas also it shall have, among others, the power to effect on-premises investigations, and order other authorities to proceed to such on-premises investigations, full power to access premises and vehicles used by the producer, seize evidence and documents, the power to request relevant information and to keep such data for as long as necessary. Fines in case of an infringement vary from recommendations to fines from euro 1,000 up to euro 1 mio,

banning of advertisement but also removing content, deleting, deactivating, or restricting access to an online interface.

At the same time, the VAT rate on a range of personal hygiene products is reduced to 6% from 24%. Products that reduce the VAT rate to 6% from 24% include masks, gloves, antiseptic solutions, soap, wipes and ethyl alcohol if used for antiseptic production (until 31.12.2020).

There is also a ceiling (cap) of 3 pieces per customer, regarding (a) Disinfection products, (b) Ethyl alcohol products, (c) Antiseptic products, whereas these products will only be available in individual packages, an obligation applying for a maximum of six months from the entry into force of said Decree (art. 17).

B. Investigation of the HCC into price increases and output restrictions in healthcare materials and other products

At the same time, an investigation has been very recently launched by the Hellenic Competition Commission (HCC) [see HCC press release of 21.02.2020] regarding companies active in the production, import, and wholesale and retail sale of healthcare products / products of personal protection and personal hygiene (surgical masks, disposable gloves, antiseptic wipes and solutions) in the Greek territory.

In particular, this week, the HCC has sent requests for information (RFIs) to a large number of companies active in the production, import and marketing of healthcare products, which shall submit to the HCC, until March 31, information regarding costs / raw materials, prices, profit margins, quantities produced and sold, price increases, invoices covering the recent months (November 2019-March 2020). This investigation takes place through a questionnaire to be submitted electronically on a dedicated digital platform.

This action signifies the use of an innovative digital investigation tool for the Authority: On the basis of the analysis of the responses to the RFIs (via an online programme and by analyzing the data collected through data analytics tools to decide further action), the HCC shall decide whether to launch an *ex officio* investigation and take enforcement measures with respect to increases in the retail prices of healthcare materials. This is the first time to date the HCC has used this method to examine potentially unjustified price hikes and output restrictions.

According to the HCC press release, this action was deemed necessary following numerous consumer complaints and media reports regarding: a) significant price increases of the products in question

observed at a number of retail outlets, and b) shortages of these products which are likely to stem from business practices in the distribution chain that may fall under the provisions of Law 3959/2011 on the Protection of Free Competition. According to the Authority, there is also a need for data collection to better plan the measures that may need to be taken to address the impact of any eventual anti-competitive practices, should the investigations already in course and the measures taken by other public bodies not produce the desired results.

The HCC reiterates its direct and continuous cooperation with the General Secretariat of Commerce and Consumer Protection.

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