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Introduction

The Greek Ministry of Development has recently focused its efforts in combating perceived market failures affecting the formulation of the prices for basic consumer goods and the phenomenon of the so-called 'greedflation'. In this regard, new legislative measures (**Articles 38-40 of Law 5082/2024**) have been adopted to address high prices of basic consumer goods, in addition to **Article 54 of Law 5045/2023** 'Combating of unfair profiteering phenomena', and to the '**Price increase Announcement**' obligation and the '**Permanent Price Reduction**' initiative introduced by Articles 15 and 16 of Law 5055/2023, respectively.

In particular, **Article 38 of Law 5082/2024** (on '**Price rationalization and transparency**', GG A' 9/19.01.2024) ('**new Law**') imposes specific obligations to suppliers with respect to their commercial and discount policy to supermarkets for certain categories of consumer goods aiming at the reduction of the initial price of consumer goods. Furthermore, with a view to address the issue of persistently high prices at which certain infant formulae and second infant formulae are offered to consumers, **Article 39 of Law 5082/2024**, imposes a margin cap on the maximum profit of the companies that import, produce and distribute infant formulae and second infant formulae in Greece. Finally, **Article 40** of the new Law introduces the possibility of awarding a contract for the upgrade of the e-katanalotis digital platform with an aim of promoting the acceleration of the development of the platform's capabilities.

I. Price rationalization and transparency

- *Prohibition of promotional activities for consumer products for which a price increase is announced*

Article 38 par. 1 of Law 5082/2024 specifies that **as of January 10, 2024**, for consumer products of companies for which a price increase is announced in accordance with Article 15 ('Price Increase Announcement') of Law 5055/2023 (A' 161), **no promotional activity to consumers shall be allowed for three (3) months** from the date on which the price increase is applied. Said measure will be in force till **until 31 December 2024**.

- *Reduction of the initial price of specific product categories*

Article 38 par. 2 of Law 5082/2024 establishes an obligation imposed on companies supplying the retail trade to reduce the initial price, i.e. the price before discounts, rebates, credits or other allowances, for specific product categories to be defined by the Ministerial Decision (referred to in par. 8 of Article 39 of the Law), **as of 1 March 2024**. Such price reduction shall be equal to at least thirty percent (30%) of the total of credits, rebates or other benefits granted to retailers in the year 2023 applied on the initial price of 31 December 2023.

- *Net prices for companies producing or marketing fresh meat, fish, fruit and vegetables*

Article 38 par. 3 of the new Law imposes an obligation to companies producing or marketing fresh meat, fish, fruit and vegetables to sell these products at net prices, i.e. without granting discounts, credits or other allowances to other companies, which, in aggregate, exceed three percent (3%) of the selling price before discounts, credits, rebates and or other allowances.

Pursuant to the explanatory memorandum of the new Law, the object of the provision of Article 38 of the new Law is to limit perceived market failures in certain categories of consumer products that threaten the buying power of consumers and create situations of unfair competition by rationalizing and making transparent the prices of consumer products with a view to achieve a reduction in the initial price of such products. The above provisions shall be specified by virtue of a Ministerial Decision. In particular it is stipulated in the new Law that the **categories of promotional activities** referred to in par. 1 of Article 38 of the Law, **the discounts, credits or other allowances** referred to in par. 2 of Article 38 of the Law, **the categories of products** falling within the scope of par. 2 and 3 of Article 38 of the Law as well as the determination of the audit procedure, the sanctions and the escalation of the fines will be specified by a Ministerial Decision issued by the Minister of Development.

II. Measures for the realization of infant formula prices

- *Margin cap on the gross profit of companies that import, produce and distribute to other companies in Greece infant formulae and follow-on formulae*

Article 39 par. 1 of Law 5082/2024 sets, as of **1 March 2024**, a cap on the gross profit margin of companies that import, produce and distribute to other companies in Greece infant formulae and follow-on formulae: these companies shall be under an obligation to reset the prices of the said products to ensure that the gross profit of the company does not exceed the set cap. The cap is

defined as the sum of the **company's operating costs for the specific product category plus seven per cent (7%) on its net sales**, after deducting discounts, credits or other benefits. The operating costs are calculated on the basis of the financial statements of the fiscal period immediately preceding the entry into force of the new Law.

Par. 6 of said Article provides that by decision of the Minister of Development, restrictions may be placed on the level of operating costs, and specifications may be provided as to the procedure for the control and imposition of penalties, the scale of fines and any other details necessary for the implementation of the law.

According to the explanatory memorandum of the new Law, the aim of said provision is to rapidly reduce the prices on formulae as the weaknesses in the operation of the relevant market have led to unjustifiably high prices compared to other European markets. It also aims to protect specific groups of consumers (parents, couples wishing to have children in the future) from harmful commercial practices and encourage a change in the attitudes and commercial practices of the companies concerned.

III. Competent Authorities – Sanctions

Par. 4-7 of Article 38 as well as par. 2-5 of Article 39 of the new Law establish the same competent authorities for the investigation of an infringement of said provisions, same increased powers of investigation as well as same fines and other penalties that may be imposed in case of an infringement of par. 1-3 of Article 38 and par. 1 of Article 39 of the Law respectively.

In particular, the competent authorities for receiving complaints and establishing a possible violation of the newly inserted measures shall be: **(a)** the General Secretariat of Commerce of the Ministry of Development, and **(b)** the Interdepartmental Unit of the Ministry of Development for Market Control (DI.M.E.A) which

are granted the following increased powers of investigation, to:

- ❖ access any information, data and documents from any source that facilitates the control of any suspected infringement;
- ❖ perform an inspection, including powers to access any premises or means of transport used by the supplier subject to the inspection, or order an inspection to be performed by other public authorities, in order to obtain, examine and seize information, data or documents obtained in the course of the latter inspection;
- ❖ retain the information, data and documents obtained in the course of the inspection for as long and to the extent necessary for the proper conduct of the inspection;
- ❖ request information from any representative or staff member of the supplier being inspected, who shall be obliged to provide information and explanations regarding the facts, data or documents relevant to the subject matter of the audit.

As regards the sanctions that may be imposed to companies infringing the aforementioned provisions of the Law, the competent Authorities may, either alternatively or cumulatively, impose the followings **increased fines** and sanctions, depending on the gravity of the infringement:

- ❖ a **recommendation** to cease the infringement and comply within an exclusive time limit set by the respective decision, and to omit it in the future;
- ❖ a fine in the range of **five thousand (5,000) and two million (2,000,000) euros** and the **disclosure of the name of the infringing company and of the respective fine imposed**, in accordance with the conditions and procedure provided for in par. 5 of Article 13a of Law 2251/1994 (A' 191).

The competent authorities may also impose a fine of **five thousand (5,000) to one million (1,000,000) euros** to an inspected company, if the latter conceals, falsifies or fails to provide the information requested by the competent Authorities or obstructs in any way the exercise of the Authorities' investigative powers.

IV. Other provisions – Upgrading of the "e-katanalotis" platform to support initiatives to increase competition

Article 40 of new Law 5082/2024 introduces the possibility of awarding a contract for the upgrade of the e-katanalotis digital platform -which currently allows consumers to compare daily prices for basic household products also included in the Household Basket- in accordance with the procedure described in Article 118 of Law 4412/2016 on 'Public procurement of works, supplies and services'.

According to the explanatory memorandum of the Law, this provision is introduced in light of the envisaged expansion of **the platform's price comparison capabilities and increase of the number of product codes for which information is provided** so as to make the platform a permanent tool for price comparison and Price Observatory in the Greek market. The need for an upgrade is imperative also in view of the new extension and expansion of the legislative measures already adopted to address high prices of basic consumer goods which are supported by the platform.

Final remarks

The newly adopted measures aim to tackle the implications of the global inflation crisis in products vital for the consumers, to eliminate the lack of transparency in the pricing of products at the different stages of the supply chain as well as to protect special consumers groups (i.e. parents of infants up to one (1) year of age, but also couples wishing to have children in the future). However, high prices are a global, persistent and

multi-faceted problem and the impact of said provisions remains to be seen. Further clarifications, to be also provided by means of the respective secondary legislation, with respect to the implementation of the measures at issue as well as their interaction with the existing provisions on 'Price increase Announcement', the 'Permanent Price Reduction' initiatives as well as Article 54 of Law 5045/2023 'on measures against unfair profitability' are required in order for the market to be able to effectively comply with the aforementioned exceptional and novel regulatory framework and policy tools.

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