CASE CARD | 15 October 2026

Dimka (730/2021)

Resale price maintenance; restriction of active/passive sales; single branding

1. CASE SUMMARY

A. Summary of facts

On 26 March 2021, the Hellenic Competition Commission ('HCC') adopted Decision 730/2021 against Resoul, an importer and wholesaler of liquefied petroleum gas ('LPG') cartridges and small LPG appliances for general use. The decision followed an *ex officio* investigation by the Directorate General for Competition ('DGC'), triggered by a complaint from Stamatoulis Commercial Industrial Tourism Import-Export S.A., a former Resoul distributor. The investigation concerned alleged infringements of Article 1 of Law 3959/2011 (the Greek Competition Act) and Article 101 TFEU in the Greek wholesale market for small LPG appliances for general use. The HCC sent requests for information to 16 Resoul distributors, nine supermarket chains and seven competitors. It found that Resoul had imposed resale price maintenance, restrictions on active and passive sales, and single-branding obligations between 2008 and 2012. The HCC imposed a total fine of 1,100,547.11 EUR.

B. Legal analysis

The investigation concerned the Greek wholesale market for small LPG appliances for general use, indoors and outdoors. The HCC identified seven product categories, while its assessment focused on LPG cartridges and small LPG appliances. Resoul supplied supermarket chains directly and also sold through wholesalers and distributors that supplied supermarkets. The HCC assessed the annual agreements concluded with both groups of customers. It also examined whether agreements concluded with distributors and agents from 2013 to 2018 constituted genuine agency agreements. On the basis of the transfer of ownership and the commercial and financial risks borne by the intermediaries, the HCC treated them as distribution agreements rather than commercial agency agreements.

B.1. - Article 101(1) TFEU – Resale price maintenance

Resoul's agreements with wholesalers and distributors for 2008 to 2012 contained a clause requiring compliance with Resoul's pricing policy. They also required distributors to provide detailed financial information, including turnover by customer and product, enabling Resoul to monitor their pricing. Agreements with supermarkets and hypermarket members determined their profit margin and required them to pass on a 12% discount to customers. The HCC considered these arrangements to restrict wholesalers' and retailers' ability to determine their resale

prices independently and to constitute resale price maintenance.

B.2. - Article 101(1) TFEU – Territorial sales restrictions

For 2008 and 2009, Resoul's agreements required wholesalers and distributors to operate only within a specified territory, although the arrangements were not exclusive distribution agreements. The HCC found that this prohibited both active and passive sales outside the allocated territory. The agreements were amended into exclusive distribution agreements for 2010 to 2012, but the restriction on passive sales remained. The HCC therefore considered the restriction on passive sales to be a hardcore restriction. Together with the exclusive purchasing obligation, these clauses eliminated intra-brand competition.

B.3. - Article 101(1) TFEU – Single branding

Resouls agreements for 2008 to 2012 required distributors to sell Resoul products exclusively. The HCC considered that this single-branding obligation, combined with the territorial sales restrictions and Resoul's position on the relevant market, substantially restricted intra-brand and inter-brand competition. It concluded that the three practices constituted hardcore restrictions under Article 1 of the Greek Competition Act, Article 101 TFEU and Regulation 330/2010.

B.4. - Article 101(3) TFEU – No exemption established

The decision, as summarised in the available source material, does not identify circumstances capable of exempting the practices under Article 101(3) TFEU.

B.5. - Fines – Reductions for financial difficulties and cooperation

The HCC first reduced the fine by 30%, taking account of the prolonged economic crisis in Greece, its effects on the sector concerned and the risk that the fine would cause Resoul serious financial difficulties. It granted a further 25% reduction for RESOUL's active cooperation after notification of the statement of objections. The HCC noted in particular that Resoul had voluntarily amended its agreements with wholesalers before the complaint was lodged and had gradually amended most supermarket agreements before the statement of objections was notified. The final fine amounted to 1,100,547.11 EUR.

2. QUOTES

"*Regarding the agreements for the years 2013 to 2018 between RESOUL and the distributors/agents, it is clear that these are distribution agreements and not commercial agency agreements based on the following terms:*

• with respect to the legal nature of the agreement, the 2013 agreement provides that: '1.1 It is expressly agreed that the relationship established between the parties under this contract is exclusively that of the seller (Supplier),

and the buyer (Agent)';

• acquisition of ownership of products;

• obligation to make special investments in equipment and personnel;

• with regard to the risks borne by the parties, it is provided that '2.3. The Supplier is obliged to deliver the above products at the entrance of the Agent's facility/warehouse…' and '10.2 The Supplier is obliged to release the Agent from any liability for compensation to its customers or third parties due to defective products or absence of agreed characteristics'. Also, according to Article 14(4) of the agreement, the Supplier is obliged to repurchase the goods covered by the agreement which the representative failed to sell, at their purchase price." (free translation of §145)

3. RELEVANT LEGISLATION

- Article 1 of Law 3959/2011
- Article 101 TFEU
- Regulation 330/2010
- Guidelines on vertical restraints

4. PRACTICAL SIGNIFICANCE

The decision is particularly relevant because it clarifies the distinction between a genuine agency agreement and a distribution agreement. The legal characterisation chosen by the parties is not decisive. Instead, the assessment depends on the economic reality of the relationship and, in particular, on whether the intermediary bears significant commercial or financial risks in connection with the activities for which it has been appointed. In this case, the transfer of ownership of the products, the obligation to make investments in equipment and personnel, and the allocation of risks led the HCC to classify the arrangements as distribution agreements rather than genuine agency agreements.