



## The Role of EETT in the Enforcement of Competition Rules in the Greek Electronic Communications Market

In accordance with the new Law No. 3431/2006 on "Electronic Communications" (Article 12, par. f and g), following the stipulations laid down in the 2002 European regulatory framework, the National Telecommunications & Post Commission (EETT) is now empowered to apply and enforce "Law No. 703/1977 on Competition" and articles 81 and 82 of the EU Treaty, exclusively at the electronic communications market.

Without doubt, the necessity to apply competition rules in a market of high mobility has been stressed already from the moment the liberalization of the market and the technical convergence phenomenon had taken place. These facts have brought a dramatic change in the structure of the market, pushing the companies of the sector to search for competitive business solutions and "policies" in order to maintain or even increase their market shares. As a result, companies have already embarked on a process of consolidation, trying to increase performance and achieve higher and better profits, while at the same time becoming active in other sub-markets outside Greece.

In such market with clear characteristics of economy of scale, the application of competition rules was considered absolutely necessary both for balancing the interests of all communications companies, wishing an "open access" market for developing their business plans, but also for ensuring the development of "innovation" and creation of alternative infrastructures in order to provide "new" services to consumers.

The fact is that the "policy" of applying competition rules in the Electronic Communications Market has strengthened the role of the National Regulatory Authority significantly, as EETT is now empowered with the former tasks of the Competition Authority. As such, EETT, following the provisions laid down in Laws No. 3431/2006 and 703/1977, takes into consideration the specialized experience and know-how

of the Competition Authority and proceeds to the analysis of agreements, decisions, coordinated practices, buyouts and mergers of Electronic Communications companies, in order to identify potential restrictions of competition in the said market. At the same time, the Law has entrusted EETT with the power to identify any practices of abuse of the dominant position of companies having "significant market power" and impose corresponding sanctions (if a violation is identified). The previous experience of the structure of the Greek telecommunications market, a market still characterised by strong monopolistic features, has confirmed that the abusive behavior of a dominant company can develop in various sub-markets under different forms. The most frequent of them, thoroughly investigated by EETT, have proved to be the refusal to negotiate, the refusal to provide access to essential facilities, the imposition of non cost-allocated tariffs, the set of abnormal conditions for the conclusion of agreements, and other practices preventing the effective competition of the relevant market. The reference to articles 81 and 82 of the EU Treaty in the body of the Law (No. 3431/2006) ensures the harmonized application of competition rules, as well as the correct function of cooperation mechanisms between the EU Regulatory Authorities, in the case a practice or an agreement affects trade between member states (cases with Community Dimension). In that case, EETT and the Competition Authority are required to refer the case to the European Commission, thus ensuring the coordinated application of the competition rules in the European market.

During the examination procedure of all notified agreements and mergers of companies, EETT — as well as the Competition Authority — perform an individual analysis of the relevant markets, by checking the market shares of the participating companies, the power of buyers, the potential barriers to

entry in the market, the technological advantages, as well as the absence of potential competition, in order to ensure a thorough evaluation of the relevant file. The Decision EETT can issue may have the form of an approval, ideally it can impose certain terms and conditions, or even forbid the relevant agreement/acquisition.

In any case, taking into consideration the increased needs and the perplexity of the electronic communications market, it is a widely accepted conclusion that EETT, by applying and enforcing competition rules through transparent, unbiased and effective procedures, will move a step ahead towards the realization of its goals and the reinforcement of competition in the said market, anticipating even more benefits for the wide base of clients.

