



**HELLENIC REPUBLIC
HELLENIC COMPETITION COMMISSION**

Athens, 11 July 2018

PRESS RELEASE

Decision concerning GLAXOSMITHKLINE SA and GLAXOSMITHKLINE plc's supply policy of medicinal products LAMICTAL, IMIGRAN and SEREVENT in the Greek market, following the partial referral of the case back to the Hellenic Competition Commission (HCC) by the Athens Administrative Court of Appeals and the Council of State

Following decisions of the Athens Administrative Court of Appeals and of the Council of State, referring back to the HCC certain aspects of the *Glaxo Greece* case for a new ruling, the HCC found that GLAXOSMITHKLINE SA and GLAXOSMITHKLINE plc abused their dominant position in the market of migraine medicines in Greece from 2000 to 2004 with the aim of reducing parallel exports, a) (unanimously) by initially refusing to meet all orders of the medicinal product IMIGRAN in their entirety and b) (by majority) subsequently by refusing to meet 'ordinary' orders of wholesalers and reducing substantially the quantities supplied to them, thereby infringing Articles 2 of the Competition Act and 82 ECT. The 'ordinary' character of wholesalers' orders was estimated according to the criteria set out in the Court of Justice's judgement in joined cases *C-468/06 to C-478/06, Sot. Lelos kai Sia EE and Others v. GLAXOSMITHKLINE AEVE* and in particular by reference to the annual size of orders and supplies per wholesaler, the national consumption per year and the pattern of previous business relations between the pharmaceutical companies and wholesalers during the years prior to the infringement.

The HCC imposed on GLAXOSMITHKLINE SA and GLAXOSMITHKLINE plc fines totalling €1.168.343 for the above infringement (by majority), as well as for the infringement of Article 82 ECT found by the Athens Administrative Court of Appeals in connection with the supply policy of the medicinal product LAMICTAL for the relevant periods identified by the Court, i.e. from November 2000 to February 2001 and from 20.4.2001 to 19.3.2002 (unanimously).

In light of Court of Justice's judgement in *Lelos*, the HCC further clarified that orders by certain wholesalers of the medicinal product IMIGRAN in quantities which were out of all proportion to those previously sold by the same wholesalers to meet the needs of the Greek market were 'extraordinary' in character. Refusing to meet orders of significant quantities of medicinal product IMIGRAN essentially destined for parallel export and reducing the quantities supplied to wholesalers/ exporters, were not thus considered as instances of an abusive behaviour and the HCC rejected the relevant complaints.

Regarding GLAXOSMITHKLINE SA and GLAXOSMITHKLINE plc's distribution policy for the medicinal product SEREVENT, the HCC found that the above undertakings were not dominant within the meaning of Articles 2 of the Competition Act and 82 ECT in the Greek market of medicines for the treatment of respiratory diseases.

Furthermore, the HCC imposed on GLAXOSMITHKLINE SA and GLAXOSMITHKLINE plc a periodic penalty payment of €2.919.378 for non-compliance with its decision 193/III/2001 imposing interim measures as established by the Athens Administrative Court of Appeals, for the entire period of its validity (from 08.08.2001 to 26.09.2001 and from 23.11.2001 to 01.09.2006).