

Competition - Cyprus

Cyprus amends Protection of Competition Law

Contributed by **L Papaphilippou & Co LLC**

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Introduction
Main changes

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On March 28 2014 the Protection of Competition (Amending) Law (41(I)/2014), which amends the Protection of Competition Law 2008, was published in the *Official Gazette*. The new consolidated legislation is referred to as the Protection of Competition Laws 2008 and 2014.

Before the amending law was enacted, the Commission for the Protection of Competition conducted a public consultation between September 9 2013 and September 23 2013.

Main changes

A new definition of the term 'undertaking' has been enacted through Section 2 of the law, referring to an entity that exercises an economic activity regardless of its legal status and method of financing.

According to Section 23A – after public consultation and taking into account the public interest, the possible consequences on competition and/or consumers and the limitation periods stated in the laws – the commission will issue a decision to be published in the *Official Gazette*, thereby notifying the criteria that should be taken into account when prioritising the examination of cases concerning infringement of Sections 3 and/or 6 of the laws and/or Articles 101 and/or 102 of the Treaty on the Functioning of the European Union (TFEU).

According to Section 23B, the commission is entitled to:

- cooperate with regulatory or other authorities that exercise control in particular sectors of the Cyprus economy and provide assistance, if required;
- request the assistance of such regulatory or other authorities in the exercise of its jurisdiction; and
- enter into memoranda of cooperation with other national competition authorities.

In accordance with the new Section 25(1), if the commission intends to issue a decision demanding that violation of Sections 3 and/or 6 of the laws and/or Articles 101 and/or 102 of the TFEU should cease, and the relevant undertakings or associations of undertakings offer to assume certain commitments in order to respond to the commission's objections during its preliminary evaluation, the commission can decide to render these commitments binding on the relevant undertakings or associations of undertakings. The commission's decision can be issued for a specific period and must conclude that there are no longer any reasons to take further action. Furthermore, under the new Section 25(2), if the relevant undertakings or associations of undertakings infringe these binding commitments, the commission can impose an administrative fine of up to 10% of the turnover achieved during the preceding financial year.

The commission's legislative ambit and its jurisdiction to adopt interim measures set out in Section 28 have been amended through the insertion of the criterion of urgency, where there is a serious danger of irreparable damage to competition.

Section 30A of the law empowers the commission, during the exercise of its functions, to conduct an interview with each natural or legal person that consents to that effect, with the aim of taking a statement regarding the object of the pending search.

Under Section 32A, the commission is empowered to:

Author

Pantelis Christofides



- conduct an enquiry into a specific sector of the economy, or specific types of agreement in various sectors, where the course of commercial transactions, the inelasticity of prices or other circumstance creates suspicions of a possible limitation or distortion of competition in Cyprus;
- request such information as is demanded for the application of Sections 3 and/or 6 of the laws and/or Articles 101 and/or 102 of the TFEU, as well as carrying out any other necessary checks to this effect (in particular, the commission can request that undertakings or associations of undertakings make known to the commission any agreement, decision or concerted practice);
- publish a report of the results of its search in specific sectors of the economy or specific types of agreement in various sectors; and
- use the information that results from such search during investigation cases regarding potential infringements of Sections 3 and/or 6 of the laws and/or Articles 101 and/or 102 of the TFEU.

For further information on this topic please contact [Pantelis Christofides](#) at L Papaphilippou & Co LLC by telephone (+357 22 271000), fax (+357 22 271111) or email (pc@papaphilippou.eu). The L Papaphilippou & Co website can be accessed at www.papaphilippou.eu.

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