

Decision no: 51/2013

File no: 11.17.012.09

**THE PROTECTION OF COMPETITION LAW 2008
(Law no. 13(I)/2008)**

Complaint by Mr. Tasos Ioannou against hotels Anastasia Hotel, Marlita 3 blocks a, b, c, Papantonia 2 blocks, Tsokkos Gardens 2 blocks, Polykarpia Hotel, Ausonia Hotel and Bampero Apartments, Athea Village, Aqua Sol (Jacaranda), Crown Resorts (Ellamaris 3 blocks 120 rooms), Lordos Hotel (Golden Coast) and Perneria Hotel and the travel agents Sun House, Thomson, First Choice, Thomas Cook and Biblio Globus.

Commission for the Protection of Competition:

Mrs. Loukia Christodoulou	Chairperson
Mrs. Eleni Karaoli	Member
Mr. Andreas Karides	Member
Mr. Charis Pastellis	Member
Mr. Christos Tsingis	Member

Date of decision: 5 September 2013

SUMMARY DECISION

The case concerned a complaint filed by Mr. Taso Ioannou, a restaurant owner, against hotels and/or other accommodations of company A. Tsokkos Hotels Public Ltd, other hotels and/or accommodations and travel agents and/or organizing travel companies, for an alleged infringement of Section 3 (1) (a), 6 (1) (a) and 6 (2) of the Protection of Competition Law 13(I)/2008 ("Law") and Section 101 and 102 of the Treaty of The Function of The European Union ("TFEU"). In particular, the complaint referred to the practice of travel agents and/or organizing travel companies and hotels and/or accommodations of booking "all inclusive" type of packages for tourists visiting Cyprus, so they may be limited to hotels during their visit at the expense of restaurants.

The complainant Mr. Tasos Ioannou is the owner of the restaurant «Steak & Ale» located in Pernera in the non occupied Famagusta district and offers both Cypriot and international cuisine. The restaurant has been open since April 1, 1996 and is the complainant's only line of business.

The complaint is made against Anastasia Hotel, Marlita Hotel, Papantonia Apts, Tsokkos Gardens Apts, Polykarpia Hotel, Ausonia Hotel and Pambero Apts, which are all hotels and/or other accommodations owned by company A. Tsokkos Hotels Public Ltd.

Also the complaint is made against other hotels and/or accommodations and specifically against Louis Althea Beach, Aqua Sol Jacaranda, Crown Resorts Elamaris, Golden Coast/Lordos Hotels and Pernera Beach Hotel, as well as travel agents and/or organizing travel companies and specifically Biblio Globus, First Choice/Thomson Holidays (TUI UK Ltd) and Thomas Cook.

The Commission for the Protection of Competition ("Commission") with its decision after taking into account all the information in the administrative file and the relevant case law, defined as the relevant product market in this case, the provision of tourist accommodation services in hotels and various other accommodations.

Regarding the relevant geographic market, the Commission decided to define it as the non occupied Famagusta district, since the conditions of competition are homogeneous throughout the non occupied Famagusta district.

After thorough examination, the Commission also concluded that there are no grounds for the allegations of infringement of Section 3 (1) (a) of the Law and Section 101 of TFEU, since the complainant failed to demonstrate any evidence of the existence of an anti-competitive agreement between the hotels and/or other accommodations and the travel agents and/or organizing travel companies and thus proceeded to examine the allegations of infringement of Section 6 (1) (a) and 6 (2) of the Law and Section 102 of TFEU.

In regard to the allegations of infringement of Section 6 (1) (a) of the Law and Section 102 of TFEU, the Commission noted that based on the evidence, company A. Tsokkos Hotels Public Ltd does not hold a dominant position in the relevant market, as claimed by the complainant, and therefore concluded that there is no infringement of Section 6 (1) (a) of the Law and Section 102 of TFEU.

The Commission then determined that for the provision of Section 6 (2) of the Law the following three parameters must exist, cumulatively:

- (a) the existence of a relation of economic dependence of a company by another company from which it obtains a certain type of product or service,
- (b) the absence of equivalent alternative, and
- (c) the existence of abuse of this dependence.

The Commission also noted that Mr. Tasos Ioannou failed to provide evidence to show and / or has not demonstrated that he has a relationship as either, a customer, supplier, manufacturer, dealer, distributor or merchant with the hotels and/or other accommodations and the travel agents and/or organizing travel companies and thus failed to provide evidence of the existence of any relationship of economic dependence. Therefore the Commission concluded that there is no infringement of Section 6 (2) of the Law.

The Commission, at its meeting convened on 5 September 2013, after having assessed all the evidence of the administrative file, unanimously concluded that there was no infringement of Section 3 (1) (a), 6 (1) (a) and 6 (2) of the Law and of Section 101 and 102 of TFEU. Thus, the Commission rejected Mr. Tasos Ioannou complaint.