

Decision no: 23/2015

File no: 11.17.013.16

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

Complaint filed by Micro Stores Ltd against Lanitis Bros Ltd

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: 22 July 2015

SUMMARY DECISION

The case concerns the complaint filed by MICRO STORES LTD (“MICRO STORES”) against LANITIS BROS LTD (“LANITIS”), for an alleged infringement of the Protection of Competition Law 13(I)/2008 as amended by Law 41(I)/2014 (“Law”). The complaint referred to the refusal of LANITIS to supply MICRO STORES with its products, i.e. fresh pasteurized cow's milk, soft drinks such as coca cola, natural mineral water, tea and coffee, sports drinks, energy drinks, juices, FAGE brand products as well as products of the dairy brand PITTAS, in violation of section 6(1) (b) of the Law.

MICRO STORES is active in the retail sales sector, with the operation of stores under the name «Micro Discount». According to MICRO STORES, Micro Discount stores offer to the consumers branded products and private label products at cheaper prices.

LANITIS, a member of the group of companies Coca Cola Hellenic, is active in the production, sale and distribution of a wide range of non-alcoholic beverages including Coca-Cola, Coca-Cola Light, Fanta and Sprite. LANITIS also sells a wide range of non-carbonated soft drinks (e.g. ready to drink tea, juice), milk products (such as milk and dairy products), coffee ready to drink and natural mineral water.

In its decision, the Commission for the Protection of Competition (“Commission”) having taking into account all the evidence before it, defined the relevant product markets in this case to be:

- a) Wholesale supply of non-alcoholic beverages which is subdivided in non-carbonated drinks (fruit juice / nectar / fruit drinks etc.), carbonated type cola drinks, other carbonated soft drinks, energy drinks, ready to drink coffee, ready to drink tea and bottled water.
- b) Wholesale supply of fresh pasteurized cow's milk and milk products which is subdivided in fresh pasteurized cow's milk, milk with flavor, yogurt, cheese and cream milk.

Regarding the relevant geographic market of the above mentioned relevant product markets, the Commission decided that this extends throughout the territory of the Republic of Cyprus.

The Commission on the basis of the evidence before it concluded that the dominant position of LANITIS, relates only to carbonated type cola drinks. In particular, the data of the investigation showed that LANITIS has a dominant position with a market share of approximately >70% against its competitors in the submarket of “carbonated type cola drinks”. Thus the Commission proceeded to examine whether LANITIS abused the dominant position it held in the specific submarket.

The Commission examined whether LANITIS imposed unfair discount terms in relation to carbonated type cola drinks so as to constitute indirect refusal to supply within the meaning of competition law. It also examined whether the refusal to supply carbonated type cola drinks, on behalf of LANITIS, led to the restriction of competition in the specific submarket, and at the end, whether it could be detrimental to consumers.

Regarding the allegations of MICRO STORES on discounts offered by LANITIS, the Commission concluded that the discounts offered by LANITIS to MICRO STORES were similar to those enjoyed by other customers of LANITIS which fall under the

category of "Local & Traditional" stores that MICRO STORES belongs to. Thus the discounts offered did not lead to the restriction of and to the detriment of the consumers.

Even more, the Commission unanimously decided that LANITIS refusal for cooperation with MICRO STORES during 2013, cannot be said to restrict competition to the detriment of consumers, since, MICRO STORES bought the specific products from other wholesalers who supply the market with the specific products from parallel imports, in better prices than those offered by LANITIS.

The preliminary conclusions of the Commission were communicated to MICRO STORES and the complainant was given a time limit of 21 days to put in writing any views concerning these conclusions. MICRO STORES sent its positions on the 17/7/2015.

The Commission, having assessed all the evidence of the administrative file unanimously concluded that LANITIS did not infringe Section 6(1) (b) of the Law and rejected MICRO STORES complaint.

Loukia Christodoulou
Chairperson
Commission for the Protection of Competition