Stock Price Performance as an Argument for Derogation from Suspension of Concentrations: Reality or Myth?

*Panagiotis N. Fotis PhD, Michael L. Polemis PhD and Nikolaos E. Zevgolis PhD**

Derogations; EC law; Financial performance; Greece; Mergers; Suspension

1. Introduction

A very interesting issue in the field of concentrations is that of a requested derogation from suspension from them, which in some cases is submitted to the Hellenic Competition Commission (HCC)[1] by the interested parties. The scope of the specific request by the latter is to achieve an exemption from the obligations laid down in paras 1[2] and 2[3] of art.4e of Law 703/77, so as to avoid serious prejudice to one or more undertakings concerned by the concentration or to third parties.

One of the main arguments that the notifying undertakings allege is the probable negative influence on their stock performance in cases where there is a delay on the judgment of the HCC about the requested suspension of derogation, or where the derogation is not granted.

This study assesses requested derogations from suspension under art.4e, para.3 of Law 703/77 notified to the HCC during the period 1995–2008 in order to clarify to what extent the negative influence to the stock price performance is reasonable or ostensible. It is hoped that the present article will constitute a motive for further relevant research about the same issue in other Member States of the European Union.

2. Regulative context/practice

2.1. EC Law

According to art.7, para.3 of Regulation 139/2004[4]:

> "The Commission may, on request, grant a derogation from the obligations imposed in paragraphs 1[5] or 2.[6] The request to grant a derogation must be reasoned. In deciding on the request, the Commission shall take into account inter alia the effects of the suspension on one or more undertakings concerned by the concentration or on a third party and the threat to competition posed by the concentration. Such a derogation may be made subject to conditions and obligations in order to ensure conditions of effective competition. A derogation may be applied for and granted at any time, be it before notification or after the transaction."

* Directorate General for Competition, Hellenic Competition Commission. The views expressed in this article are solely those of the authors and do not reflect by any means the Hellenic Competition Commission. The authors wish to thank Dr Ioannis Kokkoris for his constructive comments and suggestions.

1 See art.4e, para.3 of Law 703/77.

2 Without prejudice to the provisions of paras 2 and 3, the carrying out of the concentration is prohibited until the issuance of one of the decisions laid down in art.4d(2), (3) and (6) of Law 703/77. This prohibition also covers the concentrations that have not become an object of notification pursuant to art.4b(1). In case of a guilty infringement of this prohibition, the Hellenic Competition Commission (HCC) imposes on the bearers of the obligation for notification, pursuant to art.4b(3), a fine of at least €30,000, which in any case cannot exceed 15% of the total turnover, as is laid down in art.4f.

3 The previous paragraph's provisions do not prevent the carrying out of a public bid, purchase or exchange or the acquisition, in the context of stock-exchange transactions, of participation rights that ensure control of an undertaking, provided that these actions have been notified to the competent competition authority within the time-limit laid down in art.4b(1) of Law 703/77 and under the condition that the acquirer does not make use of the voting rights that are attached to the particular titles; or only makes use of them in order to maintain full value of their investment and upon special permission granted by the HCC pursuant to para.3.

4 Regulation 139/2004 on the control of concentrations between undertakings (the EC Merger Regulation) [2004] OJ L24/1.

5 "A concentration with a Community dimension as defined in Article 1, or which is to be examined by the Commission pursuant to Article 4(5), shall not be implemented either before its notification or until it has been declared compatible with the common market pursuant to a decision under Articles 6(1)(b), 8(1) or 8(2), or on the basis of a presumption according to Article 10(6)".

6 "Paragraph 1 shall not prevent the implementation of a public bid or of a series of transactions in securities including those convertible into other securities admitted to trading on a market such as a stock exchange, by which control within the meaning of Article 3 is acquired from various sellers, provided that:

> (a) the concentration is notified to the Commission pursuant to Article 4 without delay; and
> (b) the acquirer does not exercise the voting rights attached to the securities in question or does so only to maintain the full value of its investments based on a derogation granted by the Commission under paragraph 3".

See V. Korah, *An Introductory Guide to EC Competition Law and Practice*, 9th edn (Oxford: Hart Publishing, 2007), p.396.

This article provides an exemption from the general rule of suspension of the concentration's realisation: the derogation is approved by a European Commission decision, which is taken after a request by the participating undertakings (to the concentration), or even after a request by interested third parties,[7] intending to avoid harm to their interests. In cases where a derogation has been requested, the European Commission—in order to decide whether or not the realisation of the concentration should be permissible—is obliged to balance not only the interest of the merging parties and that of interested third parties, but also the possible harm to competition as a consequence of the immediate completion of the merger.[8]

2.2. National law (Law 703/77)

According to art.4e, para.3 of Law 703/77:

> ". . . the Hellenic Competition Commission may, upon request by the interested parties, permit an exemption from the obligations laid down in paragraphs 1 and 2, in order to avoid serious prejudice to one or more undertakings concerned by the act of concentration or to third parties. The decision permitting the exemption may set terms and obligations in order to secure conditions of effective competition and to prevent situations that could hinder the execution of an eventual prohibitive final decision. The permission of exemption may be requested or granted at any time, either before notification or after the transaction. The decision permitting the exemption may be revoked by the Hellenic Competition Commission if any of the reasons laid down in article 4d(12)[9] exists".

The practice shows that one of the most usual arguments that the interested parties invoke is the probable negative influence of the requested derogation on the stock performance of the interest companies.

2.3. The usual practice of the European Commission

It is underlined that from September 21, 1990 to September 20, 2008, the European Commission had issued 100 decisions about derogation from suspension of concentrations.[10] According to art.7, para.3 of Regulation 139/2004, derogation constitutes the European Commission's practice only in exceptional circumstances. Nevertheless, derogation has been issued for a variety of reasons that interested undertakings usually provide.[11]

For instance, there were cases where the European Commission offered derogation in cases of urgent interim measures to ensure the success of the operation,[12] of lack of harmful effects on competition,[13] of fulfilment of prior commitments,[14] of the need to fulfil legal requirements,[15] of the difficult economic situation of the target,[16] or in case of the need to comply with certain conditions of a bid.[17]

7 For instance, creditors, employees, etc could be considered to be interested third parties.
8 This is the reason why "such a derogation may be made subject to conditions and obligations in order to ensure conditions of effective competition". See relatively G. Karydis, "Le controle des concentrations entre entreprises en vertu du reglement 4064/89 et la protection des interets legitimes des tiers" (1997) 33(1–2) *Cahiers de droit europeen* 81, 92, point 24.
9 The decisions issued pursuant to paras 2, 3 and 6 may be revoked by the body that has issued them in the following cases:

- if their issuance has been based on incorrect or misleading evidence; and
- if the participating undertakings breach any term or obligation set by the decision.

10 See art.7, para.4 of the Precedent Regulation (EEC) 4064/89 of 21 December 1989 on the control of concentrations between undertakings [1990] OJ L257/13. See relatively *http://ec.europa.eu/comm/competition/mergers/statistics.pdf* [Accessed February 18, 2009].
11 About the derogation issue, see Ortiz Blanco (ed.), *EC Competition Procedure*, 2nd edn (Oxford: Oxford University Press, 2006), paras 16.07–16.09; Nicholas Levy, *The Control of Concentrations between Undertakings*, (New York: Matthew Bender, 2002), para.5.13.
12 Non-opposition to a notified concentration (COMP/JV.3-*BT/Airtel*) [1999] OJ C369/24; Decision of 24 March 2000 declaring a concentration to be compatible with the common market according to Regulation (EEC) No 4064/89 (IV/M.1865-*France Telecom/Global One*).
13 Decision of 6 January 1999 declaring a concentration to be compatible with the common market according to Regulation (EEC) No 4064/89 (IV/M.1358-*Philips/Lucent Technologies*) [1999] OJ C39/13; Decision of 14 October 1999 declaring a concentration to be compatible with the common market according to Regulation (EEC) No 4064/89 (IV/M.497-*Matra Marconi Space/Satcomms*).
14 See Decision of 2 February 2000 declaring a concentration to be compatible with the common market according to Regulation (EEC) No 4064/89 (COMP/M.1820-*BP/JV Dissolution*), para.2; Decision of 2 February 2000 declaring a concentration to be compatible with the common market according to Regulation (EEC) No 4064/89 (COMP/M.1822-*Mobil/JV Dissolution*), para.2, both combined with Decision 2004/284 declaring a concentration compatible with the common market and the EEA Agreement (IV/M.1383-*Exxon/Mobil*). See also Decision of 19 February 1999 declaring a concentration to be compatible with the common market according to Regulation (EEC) No 4064/89 (IV/M.1419-*Groupe Cofinoga/BNP*).
15 See Decision of 17 November 1999 declaring a concentration to be compatible with the common market according to Regulation (EEC) No 4064/89 (COMP/M.1667-*BBL/BT/ISP-Belgium*); Decision of 22 June 1998 declaring a concentration to be compatible with the common market according to Regulation (EEC) No 4064/89 (IV/JV.2-*ENEL/FT/DT*), para.8; Decision of 27 March 1995 declaring a concentration to be compatible with the common market according to Regulation (EEC) No 4064/89 (IV/M.538-*Omnitel*), para.6.
16 Decision of 11 April 1995 declaring a concentration to be compatible with the common market according to Regulation 4064/89 (IV/M.573-*ING/Barings*); see also Decision of 10 August 1993 declaring a concentration to be compatible with the common market according to Regulation 4064/89 (COMP/M.3148-*Siemens/Alstom Gas and Steam Turbines*); Decision of 20 August 1991 declaring a concentration to be compatible with the common market according to Regulation 4064/89 (IV/M.116-*Kelt/American Express*).
17 See Decision of 18 December 2002 declaring a concentration to be compatible with the common market according to Regulation 4064/89 (COMP/M.3007-*E.ON/TXU Europe Group*),

It is remarkable that, to the best of the authors' knowledge, derogation has never been granted due to a possible deterioration of a firm's stock performance. All in all, the authors have not detected any such case.

2.4. The usual practice of the HCC

In the present study, we examined 53 requested derogations from suspension[18] which were submitted to the HCC during the period 1995–2008. It is remarkable that in 26 of these 53 cases[19] (49 per cent) the reduction of the stock performance was one of the main arguments, or the only argument, for the achievement of derogation from suspension. Only in three of those 26 cases was the HCC's decision negative, which means that in the vast majority of these cases (23 of 26), derogation from suspension was achieved. More specifically, among those 26 cases, 11 cases were found where the possible reduction of the stock performance concerned the acquired business, and only two cases were found where the possible reduction of the stock performance concerned the acquiring company (the buyer). In the rest of the cases, i.e. 13 out of 26, the possible reduction of the stock performance was either one of the main arguments, or the only argument, and concerned all the participating companies.

3. Methodology

Empirical studies investigate the stock performance (or rate of return) during the occurrence of an event. In this case, the researcher uses both statistical and econometric analysis[20] in order to explore the effect of a specific event on the stock performance (i.e. merger, acquisition, derogation from suspension, etc.).[21]

In this article we try to statistically[22] investigate the possible effects of the derogation from suspension on the stock performance of the requested companies. For this purpose we examined 48 companies listed on the ASE, which are involved in a significant number of requested derogation from suspension cases (32 out of 53) during the period 1995–2008 (60.38 per cent).[23] It has to be mentioned that 15 of these (28.3 per cent) are, in the vast majority, foreign companies not listed on the ASE, while in the case of six companies (11.32 per cent), historical data was missing. As a result, the statistical sample represents 84.21 per cent of the total population (see section 4.1 of this article).

Having specified the sample of the companies under scrutiny, we calculated the stock performance for each

para.2; Decision of 8 May 2002 declaring a concentration to be compatible with the common market according to Regulation 4064/89 (COMP/M.2777-*Cinven Ltd/Angel Street Holdings*), para.2.

18 48 companies listed on the Athens Stock Exchange (ASE) are involved.

19 The other 27 of these cases concern a variety of reasons: for instance, the delay of the restructuring programme for the business that would be bought, the viability of the business that would be bought, or the non-effective function of the business that would be bought. Furthermore, there were cases where the economic crisis constituted the main argument for derogation, or the exertion of voting rights in the business that would be bought. Additionally, the validate participation in the general meeting of shareholders was the main argument for derogation, or the threat of bankruptcy. Regulation of debts also constitutes one of the main arguments for derogation. The investment's non-completion and a state loan were also arguments for derogation. Furthermore, the non-effective function of the business that would be bought is also a quite usual argument (as well as the non-effective function of the participating companies).

20 See W.J. Conover, *Practical Nonparametric Statistics*, Wiley Series in Probability and Statistics (John Wiley & Sons, 1984); (1997), Houlihan, *Mergerstat Review*, Los Angeles, CA; M. Sallinger, "Standard errors in event studies" (1992) 27 *Journal of Financial and Quantitative Analysis* 39.

21 This study is based on published financial data of the ASE.

22 For a econometric analysis, see S. Brown and J. Warner, "Measuring Security Price Performance" (1980) 8 *Journal of Financial Economics* 205; M. Bradley, A. Desai and H.E. Kim, "Synergistic Gains from Corporate Acquisitions and their Division between the Stockholders of Target and Acquiring Firm" (1982) 21 *Journal of Financial Economics* 3; E.B. Eckbo, "Horizontal Mergers, Collusion and Stockholder Wealth" (1983) 11 *Journal of Financial Economics* 241; S. Brown and J. Warner, "Using Daily Stock Returns: The Case of Event Studies" (1985) 14 *Journal of Financial Economics* 3; N.G. Travlos, "Corporate Takeover Bids, Methods of Payments and Bidding Firm's Stock Returns" (1987) 42 *Journal of Finance* 943; Mullin et al, "The competitive effects of mergers: stock market evidence from the U.S. steel dissolution suit" (1995) 26(2) *Rand Journal of Economics* 314; P. Fotis, "Mergers and Acquisitions: Oligopoly Theory, Competition Policy: Evidence from Greece" (Athens University of Economics and Business, Phd Thesis, 2005), Ch.II (in Greek); T. Duso, K. Gugler and B. Yurtoglu, "Is the Event Study Methodology Useful for Merger Analysis? A Comparison of Stock Market and Accounting Data" (Social Science Research Centre Berlin, Discussion Paper SP II–2006); L. Beverley, "Stock Market Event Studies and Competition Commission Inquiries" (CCP Working Paper 08-16, 2007); G. Langus and M. Motta, "The Effect of EU Antitrust Investigations and Fines on a Firm's Valuation" (Discussion Paper 6176, Centre for Economic Policy Research, 2007); I. Kokkoris, "A Practical Application of Event Studies in Merger Assessment: successes and Failures" (2007) 3(1) *European Competition Journal* 65; M. Heyder, O. Emneth and L. Theuvsen, "Financial market reactions to international mergers & acquisitions in the brewing industry: an event study analysis" (Conference Paper, 47th Annual Conference, German Association of Agricultural Economists, 2008). For a detailed review on event study methodology see Wenston et al, *Takeovers, Restructuring and Corporate Governance*, 2nd edn (New Jersey: Prentice Hall, 1997); S. Bhagat and R. Romano, "Event Studies and the Law - Part I: Technique and Corporate Litigation" (Yale Law School John M. Olin Center for Studies in Law, Economics, and Public Policy Working Paper Series No. 259, 2001); S. Bhagat and R. Romano, "Event Studies and the Law - Part II: Empirical studies of corporate law" (American Law and Economics Review V4 N2 (380-423), reprinted in A.M. Polinsky and S. Shavell (eds), *Handbook of Law and Economics, Vol.2* (Elsevier, 2007); Shavel (ed.), *Handbook of Law and Economics,* 1st edn (Elsevier, 2007), Vol.2, no.2; P.A. Serra, "Event study tests" (University of Porto, Working Papers da FEP no.117, 2002).

23 The data is available from the authors upon request.

one of them.[24] The analysis covers the period from the notification of the application by the companies to the issuance of the relevant decision by the HCC. It is worth mentioning that six companies have been excluded from the primary sample for statistical (outliers) and economic reasons (infrequent trading phenomenon).[25]

Furthermore, for each of the companies included in the sample, we estimated mean performance and coefficient of variation.[26] In this way, we incorporated the effect of the two periods on the companies' stock performance, while fruitful remarks can be drawn from the analysis of stock price fluctuation around its mean. It has to be noted that large stock price volatility is usually connected with speculative trends on the existing stock, whilst a low level of stock price fluctuation denotes the absence of speculation on the stock under scrutiny. Finally, in order to examine the magnitude of the correlation[27] between the time period that precedes the issuance of the decision by the HCC and the average stock performance of the requested companies, we used statistical inference.[28]

Lastly, we isolate the sample of companies that have requested, inter alia, derogation from the suspension of concentrations using the argument of stock price decrement and we investigate the "pure effect" of the latter on the stock performance of the requested companies (see section 4.2 of this article). This specific sample consists of 26 out of 40 companies[29] involved in 19 requested derogations during the period 1998–2007.

24 Stock performance without the inclusion of dividends, is given by the following formula:

$$A_t = \left(\frac{p_t - p_{t-1}}{p_{t-1}}\right) \times 100,$$

where A_t denotes stock performance on period t, p_t is the closing stock price on period t and finally p_{t-1} denotes the closing stock price on period $t-1$.

25 The infrequent trading phenomenon appears when some stocks do not trade daily on the stock exchange. In such a case, the estimated variance and co-variance of the stock performance will positively correlate with their trade frequency. For further reading on this issue see M. Scholes and J. Williams, "Estimating betas from nonsynchronous data" (1977) 5 *Journal of Financial Economics* 309; E. Dimson, "Risk Measurement when shares are subject to infrequent trading" (1979) 7 *Journal of Financial Economics* 197.

26 The relevant coefficient (standard deviation/mean) has been calculated from the closing stock prices.

27 In order to assess the relevant correlation we employ the Pearson correlation coefficient, which measures the strength and direction of a linear relationship between the X and Y variables. The formula for the sample correlation coefficient is:

$$r = \frac{S_{xy}}{\sqrt{S_{xx}S_{yy}}} = \frac{s_{xy}}{s_x s_y}$$

28 More specifically, we used the one-tailed test and the following hypotheses: Null hypothesis ($H_0 : p = 0$), denoting the absence of correlation and the alternative ($H_1 : p \prec 0$) which accepts the existence of negative correlation. For a more detailed analysis see section 4 and Figure 1.

29 Eight companies were not listed in the ASE (20%) and six companies have been excluded from the sample for statistical (outliers, 10%) and economic (infrequent trading phenomenon, 5%) reasons.

4. Empirical results

In subsection 4.1 we summarise the results from the analysis of the total sample of 48 companies that have been involved in 32 requested derogations from suspension of concentrations during the period 1995–2008. In the subsequent subsection, we draw conclusions regarding the sign of the "pure effect" of requested derogations on the stock price of the specific sample of 26 companies.

4.1. Results from the total sample

In order to assess the possible effect of the derogation from suspension by the HCC on the stock performance of the requested companies, we examine 48 companies listed on the ASE during the period 1995–2008. The empirical results do not favour the argument raised by the requested companies concerning the subsequent negative effect on their stock performance if the derogation from suspension by the HCC is delayed or not granted. On the contrary, the average stock performance of the requested companies shows an increase.

Specifically, the average stock performance of the companies included in the whole sample (n = 44) is positive and equal to 0.4 per cent (see Table 1). This means that the average stock value (performance) of the companies under scrutiny seems to remain unaffected during the critical time path. It is worth mentioning that the average stock performance of the acquiring companies (n = 27) is also positive (0.14 per cent). However, if the sample is restricted to the acquired companies (n = 17), the average stock performance is higher (0.82 per cent).[30] From the aforementioned analysis, the main conclusion that can be drawn is that the average stock performance is not negatively correlated with the issuance of the relevant decision by the HCC concerning the derogation from suspension. Furthermore, it can be stated that the "nature" of the company (acquired or acquiring) does not affect its average stock performance. Last but not least, the average stock performance remains positive when the sample is restricted to positive and negative decisions respectively (0.4 per cent and 0.5 per cent).

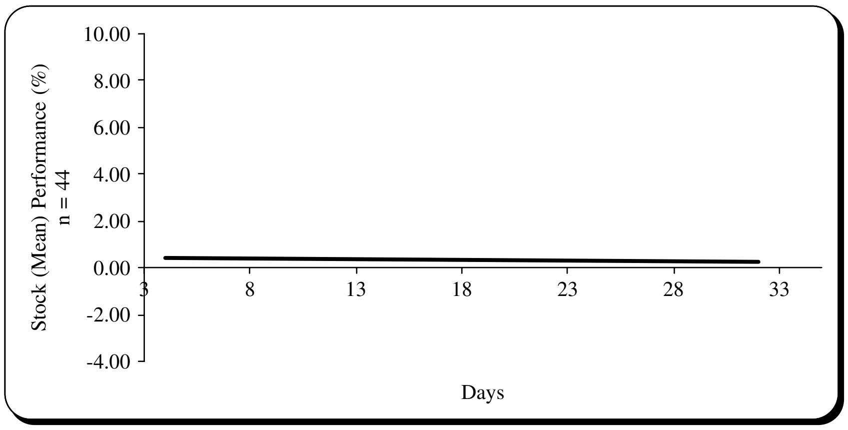
It is worth mentioning that statistical inference confirms the validity of the results stated. More specifically, the alternative hypothesis (H_1) which accepts the negative effect on the stock performance when the relevant derogation from suspension is not finally granted or delayed is rejected at the $\alpha = 0.05$ level of significance.

30 This is the main result of the analysis, due to the fact that the argument raised by the companies regarding the fall in stock performance from the delay or the negative decision by the HCC concerns mainly the acquired companies.

Table 1: Average stock performance, coefficient of variation and number of days from the notification of derogation from the suspension of concentrations until the decision by HCC

Time period	Number of companies (n = 44)	Acquiring companies (n = 27)	Acquired companies (n = 17)	Positive decision by HCC (n = 36)	Negative decision by HCC (n = 8)
			Stock performance (%)		
Total	0.40	0.14	0.82	0.39	0.46
			Coefficient of Variation (%)		
Total	5.62	4.42	7.56	5.74	5.12
			Number of days		
Total	12	15	13	12	14

Source: Elaboration of historical data, ASE



Source: Elaboration of historical data, ASE

Figure 1: Time period that precedes the issuance of the decision by the HCC as a function of the average stock performance of the requested companies

In other words, the stock performance of the requested companies (acquiring and acquired) remains unaffected during the critical time path that precedes the issuance of the relevant decision by the HCC.

Another important implication of the analysis is the absence of a systematic relationship (negative or positive) between the average stock performance and the delay in the issuance of the decision regarding the derogation from suspension (see Figure 1). The magnitude of the relevant correlation coefficient is equal to -0.02 and is not significant at the $\alpha = 0.05$ level of significance. This means that the average stock performance is independent from the number of days needed for the issuance of the decision by HCC. Therefore, the "treatment" of the applications regarding the derogation from suspension by the HCC as extremely urgent is not confirmed by the statistical analysis.

Regarding the volatility of the closing stock price as quoted on the ASE, we must mention that it is higher in the acquired companies' sample (7.56 per cent). Furthermore, the correlation coefficient for the whole sample regarding the volatility (coefficient of variation) and the average number of days (12) until the final decision of the HCC is positive (0.45) and significant even at the $\alpha = 0.01$ level of significance. If the sample is restricted to the acquired companies, the relevant correlation coefficient is estimated to 0.48 and is not significant at the $\alpha = 0.025$ level of significance. Therefore, the main argument raised by the requested companies concerning the appearance of speculative trends on the stock value does not hold.

4.2. The "pure effect" of derogation from suspension on the stock performance of requested companies

Table 2 reports the results for 26 companies that have requested derogation from suspension using, among others, the argument of stock price decrement by the HCC.

The results of Table 2 are in alignment with the results of Table 1 in section 4.1. More specifically, the average return of both acquiring and acquired company's stocks is positive. Especially, the coefficient of mean varies

Table 2: Average stock performance, coefficient of variation and number of days from the notification of derogation from the suspension of concentrations until the decision by HCC

Period	Total sample of companies ($n = 26$)	Acquiring ($n = 15$)	Acquired ($n = 11$)
	Average Stock Performance (%)		
Total	0.39 (1.31)	0.27 (0.89)	0.61 (1.73)
DER_{t-1}, DER_t, DER_{t+1}	1.31 (3.36)	1.27 (2.51)	1.35 (4.42)
DEC_{t-1}, DEC_t, DEC_{t+1}	−0.79 (2.54)	−1.24 (2.32)	−0.19 (2.81)
CON_{t-1}, CON_t, CON_{t+1}	0.95 (3.1)	0.82 (2.52)	1.12 (3.80)
	Average Coefficient of Variation (%)		
Total	4.98 (3.94)	3.97 (2.71)	6.49 (5.06)
	Average Number of Days *		
Total	10 (3.32)	10 (3.29)	10 (3.37)

Notes: (1) Notation: DER = Notification of derogation from suspension to the HCC, DEC = Decision by HCC, CON = Notification of concentration to the HCC, t = day of notification/decision, t − 1 = a day prior to notification/decision, t + 1: a day after the notification/decision, (2) The number in the brackets reports Std. deviation.
(*) Number of financial days from the notification of derogation from suspension until the issuance of the decision by HCC.
Source: Elaboration of historical data, ASE.

between 0.27 per cent for acquiring firms, 0.61 per cent for acquired firms and 0.39 per cent for the total sample. These results indicate that during the period under examination, the stock return of the companies that have requested derogation from suspension increased by a substantial amount. That is, the "pure effect" of requested derogations on the companies' stock return was positive. The same sign, of the mean return of both acquiring and acquired companies' stocks, holds for the three-day periods around the notification of both the derogation and the concentration. Both results reveal that the financial market positively discounted the "*external expansion*" by the companies.[31]

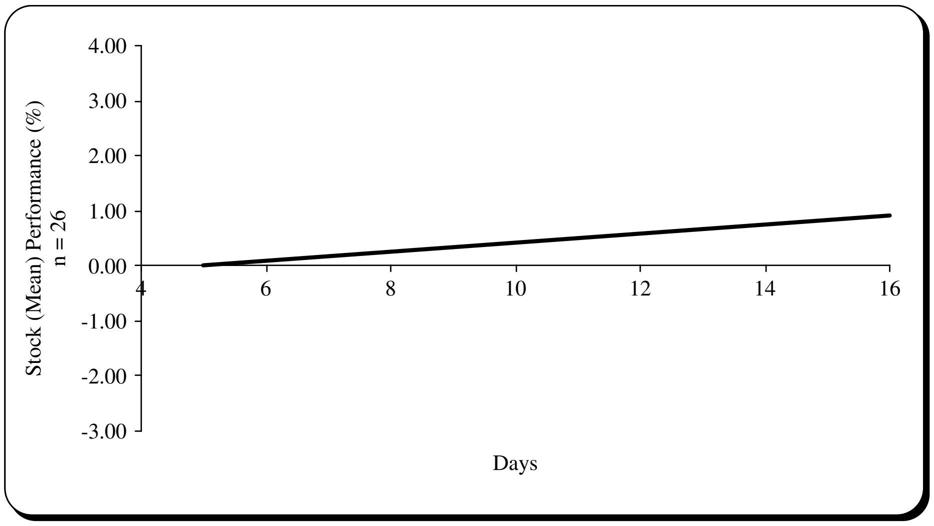
These results are verified by Figure 2. In Figure 2, the number of days is expressed as a function of mean stock performance of the 26 companies of the sample under examination. According to the relevant Figure, the Pearson correlation coefficient between the time period that precedes the issuance of the decision by the HCC and the average stock performance of the requested companies is calculated at 0.28, but it is not statistically significant.[32] Even though the insignificance of the Pearson index denotes that mean stock performance of the requested companies has not been either positively or negatively influenced by the duration of the time period preceding the issuance of the decision by the HCC,[33] the emerged influence is more likely to be positive than negative.

In terms of stock price fluctuation around its mean (coefficient of variation), the results of Table 2 denote prevailing low levels of speculation on the stocks under scrutiny. The highest insignificant price is calculated for acquired firms (6.49 per cent).[34] In addition, the Pearson correlation coefficient between the time period preceding the issuance of the decision by the HCC and the coefficient of variation is estimated at 0.38.[35] Therefore, not only the level of speculation on the stocks under scrutiny is low, but also the coefficient of variation does not seem to be a positive function of the increment of the specific time period.

5. Concluding remarks

In this article, we have attempted to investigate the possible effect of the derogation from suspension by the HCC on the stock performance of the requested companies. For this purpose, on the one hand we examined 48 companies listed on the ASE which were involved in a significant number of requested derogations from suspensions (32 out of 53) during the period 1995–2008 (total sample). On the other hand, we examined 26 companies which are not only listed on the ASE and were involved in a significant number of requested derogations from suspension of

31 Statistical inferences of all the mean coefficients of Table 2 tell us that the null hypothesis (Ho) is not rejected. That is, stock mean performance of the companies under examination is not negative during the time period precedes the issuance of the decision by HCC.
32 At significant level $a = 0,05$.
33 The same result holds for Figure 1.
34 At significant level $a = 0,05$. The insignificance of coefficient of variation holds for both acquiring and total sample as well.
35 Insignificant at $a = 0,05$.



Source: Elaboration of historical data, ASE.

Figure 2: Time period that precedes the issuance of the decision by the HCC as a function of the average stock performance of the requested companies

concentrations during the period 1995–2008, but which have also asked for derogation from the suspension of concentrations using, among others, the argument of stock price decrement (the "pure effect").

The main results of the statistical analysis from the total sample can be summarised as follows.

First, the average stock performance of the companies requesting the derogation from suspension under art.4e of the Hellenic Competition Act (Law 703/77) does not seem to deteriorate. On the contrary, it shows a significant increase ranging from 0.14 (acquiring companies) to 0.82 (acquired companies). Moreover, the delay or the negative decision by the HCC concerning the derogation from suspension does not affect either positively or negatively the stock performance of the requested companies. Therefore, one of the main arguments claimed by the requested companies regarding the reduction of their stock performance does not hold.

Secondly, the statistical analysis reveals a systematic relationship between the time period that precedes the issuance of the decision by the HCC regarding the granting of the derogation from suspension and the stock price deviation from its mean (coefficient of variation). However, the magnitude of the coefficient is not relatively high.

Thirdly, the average period that precedes the decision of the HCC is estimated to 12 days in the whole sample, rising to 14 days when the derogation from suspension is not granted.

In terms of the "pure effect" of the requested derogation from suspension by the HCC on the stock performance of the specific sample of 26 companies, the results of the statistical analysis do not dramatically differ from the preceding. That is, the average stock performance of the companies requesting the derogation shows a significant increase, ranging from 0.27 (acquiring companies) to 0.61 (acquired companies). Furthermore, the same result holds for the main argument claimed by the requested companies regarding the reduction of their stock performance. Indeed, from the results of the specific sample, the relationship between the time period that precedes the issuance of the decision by the HCC and the average stock performance of the requested companies is more likely to be positive than negative.

As it concerns the relationship between the time period that precedes the issuance of the decision by the HCC regarding the granting of the derogation and the stock price deviation from its mean (coefficient of variation) of the specific sample of 26 companies, the results indicate that under the period of examination, the level of speculation on the stocks under scrutiny was low and the coefficient of variation did not seem to be a positive function of the increment of the specific time period.

Even though the rapid nature of the decision concerning the derogation from suspension by the merging parties impedes HCC from predicting their possible stock performance, the analysis and the results of this article can be used as a pilot for the Commission in order to assess possible similar arguments in the future.

Lastly, it is hoped that the assessment of the specific issue in this article will create motivation for further relevant economic research about the same issue in other Member States of the European Union.