



Acceptance by the Hellenic Capital Market Commission on 2 January 2009

### ACCEPTED MARKET PRACTICE

#### Purchase of own shares to hold them for future acquisition of shares of another company

##### Description of the National Accepted Market Practice

A company (the issuer), whose shares are admitted to trading on a regulated market, can buy and hold its own shares for future use as means of payment when acquiring shares of another company. If the holding of these shares turns out to be unnecessary, the issuer can allocate them according to article 3 of Regulation 2273/2003/EC or sell them.

When acquiring its own shares under the present AMP, the issuer must comply with articles 4, 5 and 6 of Regulation 2273/2003/EC. Transactions performed under this practice must not lead the issuer to hold at any time more than 10% of its shareholder equity.

A decision of the shareholders meeting is required in order the issuer to reallocate the shares to another objective than the one publicly disclosed according to the first paragraph. This decision must be publicly disclosed without undue delay.

##### Rationale for why the practice would constitute manipulation

This practice cannot benefit from the exemption of the prohibitions of Directive 2003/6/EC as provided for by Article 8 since it does not correspond to the objectives of article 3 of Regulation 2273/2003/EC.

##### List of Factors

Commission Directive 2004/72/EC Article 2

Non-exhaustive list of factors to be taken into account by Competent Authorities when assessing particular practices.

- The level of transparency of the relevant market practice to the whole market (art 2(1) (a)).

Transparency of market practices by market participants is crucial for considering whether a particular market practice can be accepted by competent authorities. The less transparent a practice is, the more likely it is not to be accepted. However, practices on non regulated markets might for structural reasons be less transparent than similar practices on regulated markets. Such practices should not be in themselves considered as unacceptable by competent authorities. (preamble 2).

##### Conclusion regulator

When acquiring shares under the present AMP, the issuer must comply with disclosure obligations of article 4 (4) of Regulation 2273/2003/EC. The issuer must also disclose the amount of shares allocated to this practice.

- the need to safeguard the operation of market forces and the proper interplay of the forces of supply and demand; (art 2(1) (b)).



Market practices inhibiting the interaction of supply and demand by limiting the opportunities for other market participants to respond to transactions can create higher risks for market integrity and are, therefore, less likely to be accepted by competent authorities. (preamble 1)

**Conclusion regulator**

The trades carried out under this practice by the issuer are not aimed at impairing the operation of market forces. Generally, all trades, during a buy back program, are disclosed according to article 4(4) of Regulation 2273/2003/EC and Letter of the Chairman of the Hellenic Capital Market Commission dated 195/22.7.2008. The Hellenic Capital Market Commission can therefore undertake any investigation that it would deem necessary to verify the absence of market manipulation.

- the degree to which the relevant market practice has an impact on market liquidity and efficiency (art 2(1) (c)).

Market practices which enhance liquidity and efficiency are more likely to be accepted than those reducing them. (Preamble 1)

**Conclusion regulator**

When acquiring shares under the present AMP, the issuer must comply with the volume condition of article 5 (2) of Regulation 2273/2003/EC. Trades carried out under this practice should not therefore have a significant impact on the market.

- the degree to which the relevant practice takes into account the trading mechanism of the relevant market and enables market participants to react properly and in a timely manner to the new market situation created by that practice (art 2(1) (d)).

**Conclusion regulator**

All trades are carried out on regulated markets and therefore comply to trading and operational rules of the regulated market.

- the risk inherent in the relevant practice for the integrity of, directly or indirectly, related markets, whether regulated or not, in the relevant financial instrument, within the whole Community (art 2(1) (e)).

Particular market practices in a given market should not put at risk market integrity of other, directly or indirectly, related markets throughout the Community, whether those markets be regulated or not. Therefore, the higher the risk for market integrity on such a related market is within the Community, the less those practices are likely to be accepted by competent authorities. (Preamble 3).

**Conclusion regulator**

When acquiring shares under the present AMP, the issuer must comply with the conditions and restrictions of articles 5 and 6 of Regulation 2273/2003/EC. These conditions ensure the safety of all investors and market integrity.

- the outcome of any investigation of the relevant market practice by any competent authority or other authority mentioned in Article 12(1) of Directive 2003/6/EC, in particular whether the relevant market practice breached rules or regulations designed to prevent market abuse, or codes of conduct, be it on the market in question or on directly or indirectly related markets within the Community; (art 2(1) (f) - Commission Directive 2004/72/EC).

**Conclusion regulator**

There have not been any adverse results of investigation that might question this practice.

- the structural characteristics of the relevant market including whether it is regulated or not, the types of financial instrument traded and the type of market participants, including the extent of retail investors participation in the relevant market; (art 2(1) (g) - Commission Directive 2004/72/EC).

**Conclusion regulator**

The transactions performed by the issuer are carried out on a regulated market. The restrictions and conditions of the practise aim at the safety of all investors and the integrity of the relevant market.

Overriding Principles

Overriding principles to be observed by Competent Authorities to ensure that accepted market practices do not undermine market integrity, while fostering innovation and the continued dynamic development of financial markets:

- New or emerging accepted market practices should not be assumed to be unacceptable by the Competent Authority simply because they have not been previously accepted by it.
- Practising fairness and efficiency by market participants is required in order not to create prejudice to normal market activity and market integrity.
- Competent Authorities should analyse the impact of the relevant market practice against the main market parameters such as weighted average price of a single session, daily closing price and the specific market conditions, before carrying out the relevant market practice.

The Hellenic Capital Market Commission has examined the purpose of recognizing the particular AMP, according to the above mentioned points, as specialised in the document of CESR/04-505b «Market Abuse Directive – Level 3 First set of CESR guidance and information on the common operation of the Directive».