



**Consultations with the members of the Assembly and the Managing Board of the Serbian
Chamber of Commerce and Industry
- Application of the Protection of Competition Act -**

August 21, 2017

According to the information made available to the Chamber of Commerce and Industry of Serbia (hereinafter: **the CCIS**), amendments of the Protection of Competition Act (hereinafter: **the Competition Act**) are in preparation. As it can be concluded from the public announcements, adoption of a new Competition Act will create the opportunity for more efficient work of the Commission for Protection of Competition and facilitate the implementation of the competition protection policy in Serbia.

Considering that the implementation of the Competition Act has shown that there is room for normative improvements, we kindly invite you to provide us with opinions and comments that will give the CCIS an insight on the position of the business sector regarding this act.

Bearing in mind the undisputed importance of the Competition Act in terms of regulating the equal legal position of all undertakings on the Serbian market and exercising the right to free competition, we kindly invite you to take into consideration not only the existing institutes of the Competition Act, but also normative regulation of institutes which are not currently governed by said act.

In this regard, we would like to emphasize the following topics:

- Calculation of the total annual turnover of undertakings regulated by Article 7 of the Competition Act;
- Determination of the dominant position on the market regulated by Article 15 of the Competition Act;
- Concentration of undertakings regulated by Articles 17-19 of the Competition Act;
- Deadlines for procedural acts and actions before the Commission, with special emphasis on the deadlines within which the Commission is to make a decision;
- The Commission's right to request information in the proceedings before it, as regulated by Articles 48-49 of the Competition Act;
- Dawn raids regulated by Article 53 of the Competition Act;
- Obligation to notify a concentration prescribed by Article 61 of the Competition Act;
- Measure for protection of competition prescribed by Article 68 of the Competition Act, according to which, in case of competition infringement, a monetary fine of up to 10% of total annual turnover generated on the territory of the Republic of Serbia may be imposed on an undertaking;
- Judicial review of the Commission's decisions by the Administrative court regulated by Articles 71-73 of the Competition Act, according to which a claim against the final decision of the Commission may be filed within 30 days from the day the decision was delivered to the undertaking, while the submission of such a claim shall not postpone the enforcement of the decision.

The CCIS carries out a number of activities aimed at improving and modernizing the legislative framework in Serbia, eliminating barriers to doing business and simplifying administrative procedures, all with the purpose of building a stable, predictable and stimulating business environment that will contribute to successful business operations and development of a competitive economy. In an attempt to follow the best practical examples in implementing certain regulations, we often turn to legal solutions in the European Union, aware of Serbia's aims and aspirations towards full membership in the EU.

In this sense, when submitting your views on the implementation of the Competition Act, please bear in mind that the Austrian legal solution which governs the competition protection policy, and this country's model which is in use in Sweden, Finland, as well as in America and Canada, foresees a clear separation of powers between the administration and the judiciary, this being the main difference

compared to the Competition Act. According to the Austrian model, the Commission undertakes investigative actions, while the decision on possible competition infringement is made by the court.

Further, we use this opportunity to emphasize that, in September 2015, the CCIS signed the Memorandum of Cooperation with the Commission for Protection of Competition, which foresees, inter alia, cooperation between the two institutions in order to educate undertakings about competition protection policies and improve activities that can raise awareness of undertakings in terms of the applicable regulations in the field of competition protection. This clearly demonstrates the readiness of our institutions to further improve the protection of competition policy.

In this regard, when it comes to your views about further actions on this matter, the CCIS expresses its willingness to submit them to the Commission for Protection of Competition, and propose a meeting with the members of the CCIS, in order to improve the current Competition Act.