

## Regulation on Criteria in Defining the Relevant Market

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Pursuant to Article 6 para 4 of the Law on Protection of Competition ('Official Gazette of the RS', no. 79/05),

The Government adopted the following

### **REGULATION**

### **ON CRITERIA IN DEFINING THE RELEVANT MARKET**

Subject Matter

#### **Article 1**

This Regulation shall stipulate the criteria in defining the relevant product market and relevant geographic market (hereinafter: relevant market).

The SSNIP (or Hypothetical Monopolist) Test

#### **Article 2**

Relevant market shall be defined by application of SSNIP Test (Small but Significant Non-transitory Increase in Prices) by the hypothetical monopolist (hereinafter: Hypothetical Monopolist Test).

Hypothetical Monopolist Test requires the definition of the specific market for particular products or services where the hypothetical monopolist could profitably introduce small, but significant and permanent increase in price.

Pursuant to this Regulation, small but significant increase in price is increase in price in the range of 5% to 10%, while within the meaning of this Regulation more permanent increase in price is a price rise of up to one year.

Profitability of the hypothetical monopolist referred to in paragraph 2 of this Article shall be determined on the basis of the following assessment:

- 1) decrease in demand of products or services as a result of increase in price;
- 2) increase in costs of production and distribution of products or services as a result of decrease in demand;
- 3) amount of profit per unit of product or service after the price rise.

The assessment analysis regarding decrease in demand referred to in paragraph 4, item

1 of this Article shall be made on the basis of the following criteria:

- 1) when it is possible for buyer to switch to purchase of other product or service - substitute for relevant product or service (hereinafter: demand substitutability) and
- 2) when it is possible for other undertakings to switch to supply of relevant product or service (hereinafter: supply substitutability) in the short term without incurring significant additional costs.

Assessment of the decrease in demand in the product market

### **Article 3**

The potential demand substitutability in the product market shall be determined according to all available data relating to:

- 1) the nature of the product or service and its purpose,
- 2) amount of cost to be borne by buyers in case they opted for product or service – substitute,
- 3) results of inquiry conducted among buyers, undertakings and experts,
- 4) results related to research, studies and analysis of market made by independent organizations engaged in market research, as well as by undertakings for their own requirements,
- 5) previous trends in price movement and their effect on demand level, available to domestic and foreign organizations engaged in processing of statistical data,
- 6) results of elasticity demand test

The potential supply substitutability in the product market shall be determined according to all available data relating to:

- 1) amount of cost to be borne by other undertakings in case they opted for product or service – substitute,
- 2) the nature of the production and distributive processes,
- 3) volume of unutilized capacities in specific economic branch,
- 4) business plans and strategies of the potential undertakings for entering into market,
- 5) opinions of the existing undertakings concerning economic power of the potential

undertakings,

- 6) opinions given by independent experts and professional organizations on the probability and feasibility of supply substitutability,
- 7) previous trends in price movement and their effect on supply substitutability, available to domestic and foreign organizations engaged in processing of statistical data,
- 8) buyers' inclination in respect to purchase of product or service – substitute,
- 9) supply substitutability in relevant markets in other countries.

Definition of specific and wider relevant product market

#### **Article 4**

Within a defined relevant product market, one or more specific markets may be defined where the identical products or services are purchased by buyers having at their disposal various possible options for purchase of substitutes, in case the hypothetical monopolist is able to charge them different price and the resale of products and services among different categories of buyers is not possible. Wider relevant market product shall be defined as a market comprising two or more relevant market products, in case the products or services existing in different relevant markets have a common substitute.

Assessment analysis regarding decrease in demand in geographic market

#### **Article 5**

Potential demand substitutability by purchase of products or services in other geographic regions and supply substitutability by undertakings existing in other geographic regions shall be assessed on the basis of data referred to in Article 3 of this Regulation, also including the following:

- 1) products' characteristics, particularly their tendency to waste and durability in respect to transport,
- 2) costs borne by buyers due to their determination to purchase the products or services in other geographic regions,
- 3) costs transport of products, i.e. rendering of services from other geographic regions and their participation in price unit,
- 4) specified time frame necessary for transport of products, i.e. rendering of services

from other geographic regions,

- 5) pattern of purchases and buyers' usage patterns in various geographic regions,
- 6) characteristics in manner of sale, distribution and sale promotion of goods in various geographic regions,
- 7) trade of goods between specific geographic regions in the Republic of Serbia or trade with other countries,
- 8) other legal, natural or artificial barriers in respect to access of goods or services and undertakings from other geographic regions to geographic region in question.

Definition of specific and wider relevant geographic market

#### **Article 6**

Within the defined relevant geographic market, one or more specific geographic markets may be defined, in case a hypothetical monopolist is able to charge buyers with different price in different geographic regions while the resale of products between those regions is not possible.

Wider relevant geographic market shall be defined as a market comprising two or more relevant geographic markets, in case particular undertakings supply or have capacity to supply products and services simultaneously in various geographic markets, in the short term without incurring significant additional costs.

Final provisions

#### **Article 7**

This Regulation shall enter into force on the eighth day following its publication in the 'Official Gazette of the Republic of Serbia'.

05 no.110-69990/2005 Belgrade, November 3, 2005.