# OPINION OF THE COMMISSION FOR PROTECTION OF COMPETITION ON THE ARTICLE 6. OF THE PROPOSED LAW ON AMENDMENTS TO THE LAW ON PROTECTION OF COMPETITION

Commission for Protection of Competition expresses concern that the financial independency of the Commission of Protection of Competition, as well as its independence and autonomy, will be endangered if the Article 6 of the Law on amendments to the Law on Protection of Competition is adopted. It refers to the provision of the proposed Law on Amendments to the Law on Protection of Competition, pursuant to which the Commission shall charge taxes and not administrative fees for issuance of its acts, as it is stipulated by the current Law on Protection of Competition.

Commission received oral explanation that it is only a matter of terminology adjustments with other existing regulations in Serbia. However, legal term "tax" by itself refers to application of the Law on Administrative Taxes (Official Journal no. 43/03, 51/03-61/05, 101/05 and legislation 5/09, 54/09 and 50/11), since these amendments do not stipulate that the Law on Protection of Competition represents *lex specialis* in relation to the Law on Administrative Taxes.

Under the Law on Administrative Taxes:

- taxes are paid on account of public revenues (Art. 16), i.e. into the budget of the Republic of Serbia, and not to the account of the Commission. It further means that each payment into i.e. payment from the budget is subject to provisions regulating this field, therefore question is whether these funds will be automatically transferred from the budget to the account of the Commission, or not, that is, whether the Ministry of Finance will be deciding on the transfer of funds.

- the amount of taxes is determined by the Tariff, passed by the Government, at the proposal of the Ministry of Finance. Since the establishment of the Commission until this day, Tariff of the Commission was passed by the Council of the Commission, and approved by the Government. By said amendments, Government will adopt Tariff at the proposal of the Ministry of Finance.

- Taxes are paid in dinars and in the amount prescribed by Tariff. It means that the parties notifying concentration, with head-office outside Serbia, will not be able to pay compensation in foreign currency, but exclusively in dinars.

- Taxes are also regulated by by-laws. Question is whether by-laws, that will be adopted for the implementation of the Law on Administrative Taxes, would also be applied, what could lead to many other unresolved issues.