

Pursuant to Article 6, Paragraph 4 of the Law on Protection of Competition ("Official Gazette of the Republic of Serbia", no. 51/09) and Article 42, Paragraph 1 of the Law on Government ("Official Gazette of the Republic of Serbia", no.55/05, 71/05 – corr., 101/07 and 65/08) the Government adopts the following

**REGULATION
ON THE CRITERIA FOR DEFINING THE RELEVANT MARKET**

*Regulation was published in the "Official Gazette of the Republic of Serbia", no. 89/2009,
dated November 2, 2009*

Subject

Article 1

This Regulation shall more closely stipulate the criteria for defining the relevant market. In terms of this Regulation, the relevant market is a market which comprises the relevant product market on the relevant geographic market.

Definition of the relevant product market

Article 2

The relevant product market represents a set of goods and/or services which the consumers consider interchangeable in terms of their characteristics, common purpose and price. As an exemption from Paragraph 1, if goods/services are not interchangeable, the relevant product market shall comprise of the said goods, i.e. services. Interchangeability of the set of goods/services referred to in Paragraph 1 of this Article, shall be performed on the basis of criteria for assessment of the possibility of consumers to make a choice to purchase other goods or services considered interchangeable for respective goods or services (hereinafter: demand substitution). As an exemption from Paragraph 3, interchangeability of the set of goods/services referred to in Paragraph 1 of this Article, shall be performed on the basis of criteria for assessment of the possibility of other undertakings on the market to offer the respective goods or services, in a short time and without incurring significant additional costs (hereinafter: supply substitution).

Assessment of the possibility of demand substitution in defining the relevant product market

Article 3

The possibility of demand substitution on the product market shall be assessed on the basis of all available data and particularly on:

- 1) characteristics and intended use of goods or services;
- 2) defrayed expenses by customers related to opting for goods or services – the substitutes;
- 3) results of inquiry conducted among customers, undertakings and experts;
- 4) results of market research, studies and analysis conducted by independent organizations engaged in market research, as well as undertakings for their own needs;
- 5) recent price variations and related influence on the demand level, at the disposal of domestic and international organizations engaged in statistics;
- 6) results of elasticity demand tests, price correlation, etc.

Assessment of the possibility of supply substitution in defining the relevant product market

Article 4

The possibility of supply substitution on the product market shall be assessed on the basis of all available data and particularly on:

- 1) defrayed expenses by other undertakings related to opting for supply of goods or services – the substitutes;
- 2) nature of the production and distributive processes;
- 3) volume of unutilized capacities in related industry;
- 4) business plans and strategies of potential undertakings for entry into the market;
- 5) existing undertakings opinions on potential undertakings economic power;
- 6) autonomous experts and professional organizations opinions on the likelihood and feasibility of supply substitute;
- 7) recent price variations and related influence on the supply substitute, at the disposal of domestic and international organizations engaged in statistics;
- 8) customers tendencies in respect to purchase of goods or services – the substitutes;
- 9) supply substitute on the respective markets in other countries.

Definition of the relevant geographic market

Article 5

The relevant geographic market represents the territory on which undertakings are involved in the supply or demand and where the same or similar conditions of competition apply, which are substantially different from the conditions of competition in the neighboring areas.

The relevant geographic market shall be defined on the basis of criteria for assessment of the possibility of consumers to make a choice to purchase of goods or services in other relevant geographic areas (demand substitution), or the assessment of the possibility of undertakings from other geographic areas to offer goods or services (supply substitution).

The possibility for demand substitution by purchasing of goods or services in other geographic areas and the possibility of supply substitution performed by undertakings present in other geographic areas, shall be assessed based on the data from Article 3 and 4 of this Regulation, as well as other available data, and particularly on:

- 1) product characteristics, in particular concerning decay and transport sensitivity;
- 2) defrayed expenses by customers related to opting for goods or services in other geographic areas;
- 3) costs related to transport of goods, i.e., rendering of services from other geographic areas and their shares in the price per unit;
- 4) time necessary for transportation of goods, i.e., rendering of services from other geographic areas;
- 5) tendencies and habits of customers in different geographic areas;
- 6) features of sales, distribution and promotion of goods in different geographic areas;
- 7) turnover of goods between particular geographic areas in the Republic of Serbia or in trade with third countries;
- 8) other legal or factual barriers for access of goods or services and undertakings from other geographic areas to the geographic area subject to consideration.

Definition of the narrower and wider relevant market

Article 6

Within the defined relevant market, one or more narrower product markets, i.e., geographic markets can be distinguished, when the same goods or services are purchased by categories of customers with different preference options for buying the substitute.

The wider relevant market can be defined as comprising of two or more relevant product markets, if goods or services belonging to different relevant markets have a common substitute.

Within defined relevant geographic market, one or more narrower geographic market can be distinguished, if competition terms on respective narrower market are different in relation to other markets.

The wider relevant geographic market can be defined as comprising of two or more relevant geographic markets, if particular undertakings supply or have the capacity to simultaneously supply goods or services in multiple different geographic markets in a short period of time and without incurring significant additional costs.

Final provision

Article 7

This Regulation shall come into force on the eight day from the date of publication in the "Official Gazette of the Republic of Serbia".

05 no. 110-6923/2009-1
Belgrade, October 29, 2009

GOVERNMENT

First Deputy Prime Minister-
Deputy to the Prime Minister
Ivica Dačić