



Republic of Serbia
**COMMISSION FOR PROTECTION
OF COMPETITION**

25 Savska St., 4th Floor, Belgrade

Number: 9/0-04-453/2020-3

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MINISTRY OF JUSTICE

22-26 Nemanjina St.
Belgrade

The Ministry of Justice forwarded to the Commission for Protection of Competition, with a request for its opinion, the Draft Revised Action Plan for Negotiation Chapter 23: Judiciary and Fundamental Rights.

Pursuant to Article 22 of the Law on Protection of Competition (Official Gazette of the RS 51/09 and 95/13) and Article 19, paragraph 1, item 1) of the Statute of the Commission for Protection of Competition (Official Gazette of the RS 49/2010), at the 18th Session held on June 12, 2020, following an assessment of the act provided, the Council of the Commission for Protection of Competition delivers the following

OPINION

1. Under item 3.3.2.13., section 3 of the Action Plan: Fundamental Rights, subheading: Freedom of Expression and Pluralism of the Media, in a spreadsheet, a **plan of activities** is presented that reads:

„Control of concentrations in the media in accordance with the Law on Protection of Competition and a new Media Strategy.”

It is proposed to amend the activity under item 3.3.2.13. so as to read: **“Control of concentrations between undertakings in the media sector in accordance with the Law on Protection of Competition.”**

The amendment referred to above is proposed being that the Commission for Protection of Competition (hereinafter, the Commission) is an independent and autonomous organization that performs public competencies in accordance with the Law on Protection of Competition. In carrying out its activities, the Commission also applies other laws and regulations to the extent necessary for exercising its statutory authority.

The Commission took part in drafting the Strategy for the Development of the Public Information System in the Republic of Serbia for the period 2020-2025 (hereinafter, Media Strategy) through its representative in the Working group.

2. Under item 3.3.2.13., in a spreadsheet, column “Results indicators”, in paragraph 1, the following text reads: “Annual reports that include an overview of measures imposed, proceedings and opinions that are submitted to the National Assembly and available to the public, confirm the control of concentrations in the media in accordance with European standards.”

It is proposed to amend the Results indicators under item 3.3.2.13. presented in a spreadsheet so as to read: **“Annual reports on the Commission’s work that are submitted to the National Assembly and available to the public, which include an overview of proceedings conducted, decisions and opinions delivered, as well as measures imposed.”**

Activity 3.3.2.13, as designed, relates to the control of concentrations in the media sector. All the Commission’s decisions on the control of concentrations, including those that concern the media sector, are presented in the Annual Activity Reports of the Commission.

The description of the Results indicators in the part that relates to Annual Activity Reports of the Commission that reads: “in accordance with European standards” is not sufficiently precise and leaves room for broad and different interpretations.

Noting the fact that the Commission investigates concentrations in accordance with the provisions of the Law on Protection of Competition which, in principle, are harmonized with EU acquis, as can be seen from the EC annual Progress Reports on Serbia under Negotiation Chapter 8 (Competition Policy), the description of the Results indicators that reads as above is not required.

3. Under item 3.3.2.13., in a spreadsheet, column “Results indicators”, it is proposed to delete paragraph 2: „Analysis of media concentrations published”.

Given that the Commission is listed as a holder of activities under item 3.3.2.13, we hereby underline that the Commission does not produce any “analysis of media concentrations” but only enacts decisions in specific merger control cases. Such decisions with an explanatory note containing, inter alia, an evaluation of the impact of the merger concerned, are published by the Commission on its website in a public redacted version, making them available to the public.

4. Under 3.3.2.13., in a spreadsheet, column “Results indicators”, it is proposed to delete paragraph 3 “Administrative measures imposed in cases of unauthorized media concentrations”.

Administrative measures imposed in merger control cases in a given year, if any, are presented in the Annual Activity Reports of the Commission, making the third Results indicator already found in the first Results indicator under item 3.3.2.13. However, **if the Ministry of Justice considers it essential** to keep the indicator, we propose to word it in the following manner: “Administrative measures imposed in procedures on the control of concentrations in the media sector”.

The Commission here also points to the technical error made on page 197 of the Draft Revised Action Plan for Negotiation Chapter 23: Judiciary and Fundamental Rights, concerning the numeration of a subheading titled “Freedom of Expression and Pluralism of the Media”. The subheading concerned is numbered 3.5, where from the preceding and subsequent parts of the text follows that it should be numbered 3.3.

The Council of the Commission has no further objections from the Commission's competency-based perspective in respect of the remainder of the document concerned.