

Competition assessment checklist

Competition Assessment Checklist is a tool designed to help determine whether a certain proposal/draft regulation can distort competition in the market. If, by using the checklist, such impact to competition could be considered, the proposal/draft regulation should be submitted to the Commission for Protection of Competition for an opinion.¹

The proposal/draft is considered to impact competition, if answer to any of the below listed questions is 'YES'.

1. Does the proposal/draft directly or indirectly restrict the number or range of suppliers² or buyers OR reinforces dominance of certain existing market players? YES NO

Answer to question 1 will be YES if the proposal imposes restrictions such as, for example:

- i) Awards exclusive rights to a supplier/buyer (e.g. concessions),
- ii) Requires procurement from a single supplier or limited number of suppliers (e.g. rules of origin) and/or limits the options of a supplier to offer or a buyer to procure goods or services (e.g. quantity quota, rationing and similar),
- iii) Creates geographical barriers on purchase or sale of goods and services (e.g. minimum distance rules for retailers),
- iv) Establishes licenses, permits, approvals, opinions or authorization processes as a precondition for business operation (e.g. disproportionate requirements or mandatory membership in a professional or business associations are set as requirements for obtaining a license),
- v) Significantly increases costs of market entry, exit or growth (e.g. introduction of required product standards),
- vi) Limits the number of market participants (e.g. limited number of licenses).

In case of other restrictions for market entry or supplier/buyer switching with similar effect, the draft regulation should be submitted to the Commission for Protection of Competition for an opinion.

2. Does the proposal/draft limit the ability or incentives to compete OR facilitate collusion among competitors? YES NO

Answer to question 2 will be YES if the draft regulation imposes restrictions such as, for example:

- i) Limits the ability of market participants to set prices of goods or services they offer (e.g. price fixing, setting minimum prices or margins),
- ii) Requires or supports exchange of information between market participant (e.g. sharing information about production, sale, price and expenditure within business associations), supports self-regulation or co-regulation (e.g. by business

¹ In accordance with Article 21, paragraph 1 item 7) of the Law on Protection of Competition ("Official Gazette of the Republic of Serbia no 51/09 and 95/13)

² A supplier is an entity that operates at all levels of sale and supply of the market, such as producer, wholesaler, distributor, retailer or similar.

- associations),
- iii) Limits the ability of customers to choose their suppliers or limits suppliers' or customer' switching (e.g. required minimum contract length or long-term contracts, or increase of cost of supplier or customer switching etc.),
 - iv) Sets requirements (e.g. quality standard requirements) that give advantage to certain suppliers or are above the level that well-informed customers would choose or, in other ways, significantly increases the production cost for some suppliers (especially if such distinction is made between suppliers entering the market and the existing ones),
 - v) Limits the scope for innovations, in particular (a) introducing new products, (b) placement of existing products in new ways (e.g. using different sales formats and technologies) (c) purchasing products in new ways (e.g. using different procurement channels),
 - vi) Restricts information available to buyers or producers which would allow them to make an informative decision on purchase or sale (e.g. restrictions on advertising, introduction of rules on marketing channels).

In case of other restrictions with similar effect, the draft regulation should be submitted to the Commission for Protection of Competition for an opinion (for example the activity of a particular industry or of a group of firms is exempt from application of competition law).

3. Does the proposal/draft facilitate discrimination against certain businesses? YES NO

Answer to question 3 will be YES if proposal imposes restrictions such as, for example:

- i) Introduces discriminatory application of rules against certain groups (discrimination of e.g. new market participants, foreign citizens, small firms, private firms),
- ii) Setting out imprecise requirements for obtaining permits, licenses, authorizations and similar which cannot be objectively verified and which lead to discrimination in application of such requirements,
- iii) Introduces subsidies, state support measures, incentive policies and requirements for access to limited resources (e.g. land, water, frequency spectrum) in a way that distorts the principle of equality and/or does not facilitate clear and effective basic infrastructure access policy (i.e. non-discrimination principle, clear access requirements or access fees that do not reflect actual cost),
- iv) Allows government institutions to provide goods or services in competition with private players under their oversight.

In case of other restrictions with similar effect, the draft regulations should be submitted to the Commission for Protection of Competition for an opinion.

