



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

Date: July 1, 2009  
Belgrade

OPINION of the Commission for Protection of Competition on the Draft Law on Textbooks and other Teaching Materials (hereinafter referred to as the Draft Law)

1. Article 5 of the Draft Law stipulates that the publisher must obtain an authorization for publishing textbooks - license (hereinafter referred to as the license). By stipulating the license as a requirement for performing certain verified professions, administrative barriers for the market entry are created, affecting in this case the textbook publishing market, which potentially can cause the restriction of competition. The license as a requirement for performing certain verified professions is justifiable if it secures protection of certain public interests – for instance, security and public health of citizens, protection of environment, provision of quality standards in production and trade of goods and/or services, etc. In the concrete case, a rationale is not provided as to the introduction of the license for publishing textbooks, thus is only possible to draw a conclusion indirectly, based on the requirements stipulated for obtaining a license, regulated in Article 6 of the Draft Law. In the said article is stipulated that the license may be obtained by a publisher that have, *inter alia*, “editor in charge of related subject or professional area in secondary education, with a full-time employment status”, which implies that the goal of regulatory proponent was to secure a quality of textbooks by employing people with appropriate skills for the selection of textbooks and their preparation and publishing. However, provisions of Article 9 through 28 of the Draft Law in detail regulate the procedure followed during the preparation of textbooks for publishing and their approval for further use, aimed at securing the fulfilment of quality standards of textbooks set in Article 14 of the Draft Law. By introducing the obligation of full-time employment per editor for each subject matter or professional area of expertise, publishers are unnecessary cost-burdened, whereby stipulated obligation is not a guarantee for the fulfilment of intended goal – provision of quality of textbooks. That will reflect on the state of competition on the textbook publishing market, since the number of publishers will inevitably be reduced but not the price of textbooks, which will incorporate employment costs pertaining to the corresponding editors.

Pursuant to the aforesaid, the Commission believes that in the Draft Law is necessary to delete words in Article 5(1) following the comma mark “provided that they have obtained an authorization for publishing textbooks - license (hereinafter referred to as the license)”, as well as Article 6.

2. Article 23(2) (Decision on approval of textbooks) stipulates that following the recommendation issued by the competent council, the minister in charge of education may

approve several textbooks of the identical publisher or various publishers, for the same subject in same grade.

The Commission believes that the said provision provides a discretionary authority to the minister, whereby the purpose, as well as limitations must be further regulated by the law, which was not the case.

3. The provisions of Article 31 of the Draft Law (Low-circulation textbooks) require additional clarification so to more precisely define the manner of funding of low-circulation textbooks. Namely, from the provision of Article 7(1/4) can be concluded that the regulatory proponent planned to establish a some sort of special fund for publishing of low-circulation textbooks funded by the publishers of textbooks, but such arrangement was not further more clearly regulated in the Draft Law.

COUNCIL PRESIDENT

Prof. Dr. Dijana Marković Bajalović