



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

25/IV Savska St., Belgrade  
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**PUBLIC POLICY SECRETARIAT OF THE REPUBLIC OF SERBIA**

Belgrade  
10 Vojkoviće St.

On November 28, 2018, the Public Policy Secretariat of the Republic of Serbia has submitted to the Commission for Protection of Competition, with a request for its opinion, the Proposal of the Regulation on the Methodology of Public Policy Management, Policy and Regulatory Impact Assessment, and Content of Individual Public Policy Documents.

Upon considering the material submitted, pursuant to Article 22 read in conjunction with Article 21(1/7) of the Law on Protection of Competition (Official Gazette of the RS 51/09 and 95/13), at the 178<sup>th</sup> session held on December 7, 2018, the Council of the Commission for Protection of Competition issues the following

**OPINION**

The Proposal of the Regulation on the Methodology of Public Policy Management, Policy and Regulatory Impact Assessment, and Content of Individual Public Policy Documents, in Article 8 contained therein regulates the scope of an *ex-ante* impact analysis, that is, the conditions under which proposers should conduct in-depth impact analyses. In this regard is envisaged that the in-depth analysis should be conducted if it is assessed that a particular measure envisaged by certain public policy document or regulatory solution will cause considerable impact on natural persons, legal persons, budget, the environment or public authorities.

In Article 8(4/5) is regulated that the term ‘considerable impact’ also means the impact on market and market competition. In this regard, we believe that for the purposes of providing a more precise definition, uniform terminology, as well as improved proposer’s assessment when opting to implement an in-depth analysis, it is necessary to revise Article 8(4/5) so to read:

“5) the impact on market and market conditions (for instance, introduction of barriers to entry and/or exit; restriction of competition; creation of preconditions for achieving more favorable position of individual business groups or other legal entities; impact on productivity or innovations; price maintenance or output restrictions; impact on quality, volume or availability of particular products and services, etc.)”

If the proposer of a public policy or regulation evaluates that it is necessary to conduct an in-depth impact analysis, such review needs to be conducted by using the analytical techniques stipulated in Section III of the Regulation. However, the provisions stipulated therein lack the elaboration of Article 8(4/5), that is, no individual analysis addresses the regulatory impact analysis on markets and

competition. In this regard, we believe that the proposer who has assessed that a measure or solution may impact the market and competition and for that reason implements the in-depth analysis, also needs to consider the effects of proposed solutions on competitive conditions when performing the economic impact analysis. Therefore, we propose to amend Article 27(1) of the Proposal of the Regulation so that after the words “on the economy in general” be added “and competitive conditions”, and after the words “competitiveness” be added “of the economy”.

If accepted, then is also needed to amend Article 37(3/6), second indent, so that after the words “and especially on” the following words be added: “competitive conditions”, and also after the word “competitiveness” the following words be added “of the economy”.

In view of the need for greater specificity of proposed revisions, it is necessary to add a new question after Q2 in Annex 6 of the Proposal of the Regulation, Key Considerations for the Economic Impact Analysis:

“3) Whether or not the options considered affect competitive conditions, and if so, in what manner?”

The passing of the Proposal of the Regulation that stipulates the commitment to conduct an in-depth policy and regulatory impact assessment on market and competition as well, is of paramount importance in securing equal business conditions and free market access, in addition to preventing potential restrictions or distortions of competition through administrative channels.