



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

25/IV Savska Street, Belgrade  
Number: 4/0-01-865/2024-1  
Date: October 10, 2024

President of the Commission for Protection of Competition, pursuant to Article 35 paragraph 2 Law on Protection of Competition (“Official Gazette of the Republic of Serbia”, number 51/09 and 95/13), on October 10, 2024 brings the following

### CONCLUSION

**I** The *ex officio* competition infringement investigation **PROCEDURE IS HEREBY INITIATED** against the following:

- DELHAIZE SERBIA DRUŠTVO SA OGRANIČENOM ODGOVORNOŠĆU BEOGRAD (NOVI BEOGRAD) company, registration number 17569171, with its registered office at: 14 Juriša Gagarina Street, Belgrade (Novi Beograd), represented by the director, Gorica Jovović,
- PRIVREDNOG DRUŠTVA ZA POSLOVNE USLUGE MERCATOR-S DOO BEOGRAD company, registration number 06886671, with its registered office at: 11A Autoput za Zagreb, Belgrade (Novi Beograd), represented by the directors, Nikola Ćorsović and Lazar Marković.
- company UNIVEREXPORT EXPORT-IMPORT DOO NOVI SAD, registration number 08207259, with its registered office at: 165 Sentandrejski put, Novi Sad, represented by the director Dragoslav Vučurević and
- PROIZVODNO I TRGOVINSKOG PREDUZEĆA DIS DOO KRNJEVO, registration number 07617003, with its registered office at: 1b Bulevar Oslobođenja Street, Krnjevo, Velika Plana, represented by the director, Ivan Šuleić.

in order to determine the competition infringement as set forth in Article 10 of the Law on Protection of Competition.

- II** All individuals in possession of data, documents, or other relevant information that may be significant for establishing the facts in this proceeding are hereby invited to submit them to the Commission for Protection of Competition at the address 25 Savska Street, Belgrade.
- III** This conclusion shall be published in the “Official Gazette of the Republic of Serbia” and webpage of the Commission for Protection of Competition.

## Rationale

The Commission for the Protection of Competition (hereinafter referred to as: the Commission), pursuant to Article 47 of the Law on Protection of Competition (“Official Gazette of the Republic of Serbia”, number 51/09 and 95/13, hereinafter referred to as: the Law), conducted a Sectoral Analysis of the state and competitive conditions in the markets of specific food products within the territory of the Republic of Serbia is being conducted for the period from 2018 to 2022.

Certain findings have highlighted the need for a more comprehensive and in-depth analysis of the competitive conditions in the retail market of specific food products (hereinafter referred to as: the analysis).

Based on publicly available data, the retail market in Serbia saw a value increase of 7.2% from April 2023 to March 2024, compared to the same period the previous year, while the market volume experienced a slight decline of -1.9%. During the same period, the annual inflation rate was 5%; however, the increase in retail prices was nearly double that of inflationary pressures, indicating a significant rise in prices above the expected level.<sup>1</sup>

Through a comprehensive examination of all collected data, and considering the aforementioned points, the following preliminary conclusions have been drawn.

In accordance with publicly available data, as well as revenue data from the sale of goods obtained from the publicly available financial reports published by the Agency for Business Registers of the Republic of Serbia, it has been determined that the company DELHAIZE SERBIA DRUŠTVO SA OGRANIČENOM ODGOVORNOŠĆU BEOGRAD (NOVI BEOGRAD) (hereinafter referred to as: Delhaize), PRIVREDNO DRUŠTVO ZA POSLOVNE USLUGE MERCATOR-S DOO BEOGRAD (hereinafter referred to as: Mercator), the company UNIVEREXPORT EXPORT-IMPORT DOO NOVI SAD (hereinafter referred to as: Univerexport) and PROIZVODNO I TRGOVINSKOG PREDUZEĆA DIS DOO KRNJEVO (hereinafter referred to as: Dis) account for over 50% of the retail market in the territory of the Republic of Serbia. Therefore, the further analysis of competitive conditions in the observed market included only the parties involved in the proceedings.

With respect to revenue from the sale of goods, data from the same source indicates that, during the period from 2016 to 2023, the majority of retailers experienced an increase in revenue, with the exception of DIS and Mercator-S, which saw a decline in revenue from 2017 to 2020, followed by a subsequent increase in their revenue.

The gross margin achieved during the period from 2016 to 2023 was also examined. Gross margin represents the difference between revenue from the sale of goods (net income) and the cost of goods sold. This indicator reflects how much profit a retailer has earned after deducting the direct costs associated with the procurement of sold products. As with revenue from the sale of goods, an increase in gross margin was noted for the parties involved in the proceedings, growing from 35 billion dinars in 2016 to 87.4 billion dinars in 2023.

In the analysis, the calculation and presentation of the trading margin also utilized the gross margin rate based on the acquisition value. This indicator reflects the relationship between gross margin and the cost of goods sold, thereby offering a clear perspective on the profitability of retailers in relation to their procurement costs. The Commission has noted a continuous increase in the gross margin rate

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<sup>1</sup> Source: <https://www.instore.rs/sr/article/95394/retailzoom-najprodavanije-kategorije-proizvoda>

based on acquisition value, which averaged 19% for the parties involved in the proceedings in 2016, rising to 38% in 2023.

The analysis of the business profitability of the parties involved in the proceedings also indicates a trend of growth during the period from 2016 to 2023. The aggregate business profitability of the parties involved in the proceedings amounted to 3.7 billion dinars in 2016, while in 2023 it reached 18.6 billion dinars. This trend indicates a profitability growth in retail chains.

In addition to the aforementioned financial indicators, the Commission also considered the changes in the retail market regarding the entry of a new "player" in the market in 2018. This circumstance gave rise to the assumption that, as a result of heightened competitive pressure, a reduction in prices and a constraint on the margins of existing retail chains would occur, thereby leading to a decline in their profitability. However, contrary to expectations, prices rose above the inflation rate, and revenues increased at a rate that surpassed that of costs, resulting in an expansion of margins and a sustained trend of growth in the business profitability of the parties involved in the proceedings.

Consequently, the results of the analysis of the previously presented financial indicators highlighted the need for further and more detailed monitoring of the retail market. In this context, the Commission has observed and analyzed the prices of specific comparable products over a prolonged period to identify trends and possible deviations in retail prices. Accordingly, based on publicly available pricing data, as well as information regarding prices displayed on the shelves of specific retail chains, the Commission observed that, for a considerable number of products, the retail prices among the parties involved in the proceedings were identical. From the end of April 2024 to September 19, 2024, the Commission monitored the price movements of 35 selected products across the following retail chains: Dis, Mercator, Delhaize and Univerexport.

The conclusions drawn from the analysis of the collected data will, for illustrative purposes, be presented for the following eight products, which are essential components of the average consumer basket and whose prices directly influence consumers' household budgets: IMLEK Balans+ yogurt (1kg), IMLEK milk (2.8 mm, 1l), DIJAMANT oil (1l), SENTELLA smooth flour (T-400, 1kg), SUNOKO Kristal white sugar (1kg), L class eggs (10/1)<sup>2</sup>, GRAND Gold coffee (200g), and bananas (1kg).

The regular prices of all listed products among all observed retailers were identical or similar, albeit with varying procurement conditions. The same conclusion can be drawn when considering promotional prices.

In light of all the previously mentioned insights and conclusions concerning operations within the retail sector, as well as the performance indicators of individual participants active in the retail market and the multi-month monitoring of prices for specific products, the Commission has concluded that the analysis should also include the determination of price amounts for certain products on a specific date, or over a shorter time frame.

The basis for this analysis is the average consumer basket of a three-member household, which identified 45 products that will be the subject of observation, all of which are fully comparable (same manufacturer, same packaging, etc.). In this context, the Commission did not only monitor retail prices; it also obtained from all suppliers (manufacturers, importers, etc.) the commercial terms under which each observed retailer individually procured the selected products. In this manner, the Commission assessed that the various observed retailers have differing procurement conditions for

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<sup>2</sup> The price of this product was not monitored in UNIVEREXPORT.

identical products. Given that the acquisition cost of a product represents the most substantial component of its selling price, it was determined that there was no justifiable basis for the existence of identical or similar retail prices across different retailers.

The price assessment was conducted from August 23 to August 30, 2024, comparing the prices that were applicable during that period for the parties involved in the proceedings, along with an additional retailer—Cash&Carry PLUS.

During the period in which the price comparison was conducted, among the total of 45 analyzed products, 6 products were on promotion at MAXI (Delhaize), 10 products at IDEA (Mercator), and 9 products were offered at a reduced promotional price at UNIVEREXPORT. The focus is particularly on DIS, where as many as 15 products were on sale. Conversely, Cash&Carry PLUS did not feature any products on sale.

In terms of the value of the consumer basket among the parties involved in the proceedings, it displayed minor differences, fluctuating between RSD 35,161.00 and RSD 38,830.00. Notably, the lowest value was observed at the retail chain that concurrently had the highest number of products on promotion. If the value of the consumer basket had been calculated based on regular prices, this difference would have been even smaller. A significantly lower consumer basket price (RSD 30,523.00) was recorded at the retail outlet Cash&Carry PLUS, which was determined to have the least favorable procurement conditions for the observed products compared to the other analyzed retailers.

Based on all of the aforesaid, the Commission was able to determine the following:

- the retail market in Serbia experienced a value increase during the period from April 2023 to March 2024, alongside a slight quantitative decline.
- During the period from April 2023 to March 2024, the increase in retail prices was nearly double the inflationary pressures.
- from 2016 to 2023, a significant increase in revenue and gross margin, as well as the profitability of the parties involved, has been observed, corroborated by data regarding their operating profit.
- between April and September 2024, the regular prices of the eight specified products (milk, yogurt, oil, flour, sugar, eggs, and bananas) across all observed retailers were either identical or similar, albeit with differing procurement conditions.
- the value of the consumer basket containing 45 selected products shows slight variations among the parties involved in the proceedings, while it is significantly lower at the retail outlet of a participant not involved in the proceedings, which has the least favorable procurement conditions.

Based on all the previously established findings, the Commission reasonably concluded that the indicators observed in the retail market are a result of the absence of mutual competitive pressure among the analyzed retailers. Specifically, it has been determined that DELHAIZE SERBIA DRUŠTVO SA OGRANIČENOM ODGOVORNOŠĆU BEOGRAD (NOVI BEOGRAD), PRIVREDNO DRUŠTVO ZA POSLOVNE USLUGE MERCATOR-S DOO BEOGRAD, UNIVEREXPORT EXPORT-IMPORT DOO NOVI SAD, and PROIZVODNO I TRGOVINSKO PREDUZEĆE DIS DOO KRNJEVO have entered into a restrictive agreement as outlined in Article 10, of the Law. This conclusion is primarily based on the fact that for the observed products, price competition is the sole form of competition, which is entirely absent under conditions of identical regular and promotional prices.

The provision of Article 10, paragraph 1 of the Law, stipulates that restrictive agreements are those agreements between market participants whose aim or consequence is to significantly restrict, distort or prevent competition in the territory of the Republic of Serbia. Paragraph 3 stipulates that restrictive agreements are prohibited and void, except in cases of exemption from prohibition in accordance with the Law.

Article 35, paragraph 1 of the Law prescribes that the Commission initiates the procedure of investigation of competition violation ex officio, when, based on submitted initiatives, information and other available data, it can be presumed the existence of competition violation. Since, based on all the aforementioned, there is a substantiated presumption of the existence of a competition violation as outlined in Article 10, of the Law, decision has been made as stated in the paragraph I of the wording of this Conclusion.

The Commission shall, in the investigation procedure, in line with Article 41 of the Law, undertake all necessary evidentiary actions in order to correctly determine the factual situation, examine the existence of a competition infringement, and make a final decision upon finalization of the procedure.

In line with provisions of Article 35 paragraph 2 of the Law, decision has been made as stated in the paragraph II of the wording of this Conclusion.

In line with Article 40 paragraph 1 of the Law, decision has been made as stated in the paragraph III of the wording of this Conclusion.

**Legal remedy:**

Separate appeal is not allowed against this Conclusion, and it can be disputed in the administrative procedure by filing a suit against the final decision of the Commission in this administrative matter.

**PRESIDENT OF THE COMMISSION**

Nebojša Perić