

SERBIA: COMPETITION

UNCTAD issues a report on competition policy in Serbia

The United Nations Conference on Trade and Development (“**UNCTAD**”) has published its report on Voluntary Peer Review of Competition Policy in Serbia.¹

Apart from analyzing the current state of the competition law in Serbia, the review proposes certain changes with the aim of bringing Serbian competition law closer to EU standards. The proposals include abolishing criminal responsibility for antitrust violations, lengthening the time period for initiating the proceedings for breach of competition (currently three years from the breach) and setting more objective criteria for the way in which the Serbian Commission for Protection of Competition (“**CPC**”) fixes the fines, as the present system is seen as too subjective and molded by criminal law. With regards to mergers, the document argues for an increase in the thresholds for merger notification and proposes that the law be more specific on the CPC’s deadlines for analyzing mergers.

The report proposes certain changes related to the financing of the CPC. Instead of the current system, in which the CPC supports itself mainly from merger fees, it is proposed that the body be funded either out of the state budget or from the revenues collected by other regulatory agencies. Further, it is proposed that the current solution whereby the CPC is obliged to pay interest on fines overturned by court be abolished, as it may provoke the CPC’s self-censorship.

The report analyzes the regulated sectors of the Serbian economy and notes the low level of competition in the sectors of energy, natural gas, oil derivatives, and fixed telephony. Some other sectors, such as banking and mobile telephony, are characterized as more competitive. The document proposes that more should be done in promoting competition in infrastructure industries, for example by unbundling certain operations in the electricity and telecommunications markets. Furthermore, it is recommended that coordination between the CPC and sector regulators be improved.

The report also addresses the Serbian system of public procurement, criticizing it as being marred by bid-rigging and corruption. The health sector is singled out as especially problematic in this respect. In addition, the review suggests that the ‘domestic preference’ clause in the Serbian system of public procurement be eliminated, as it is inconsistent with international agreements and creates inefficiencies.

Certain issues related to consumer protection and unfair competition are also discussed. Upon emphasizing the deficiencies in the current system, the document suggests the ways in which enforcement in this field could be enhanced. Consequently, it is proposed that Serbia provides adequate institutional capacity for dealing with consumer protection and unfair competition issues, by either widening the competence of the CPC or by strengthening the Department of Consumer Protection in the Ministry of Trade.

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¹ UNCTAD/DITC/CLP/2011/2, available at http://www.unctad.org/en/docs/ditccpl2011d2_en.pdf.