REPUBLIC OF SERBIA
Commission for Protection of Competition

ANNUAL REPORT OF THE COMMISSION FOR PROTECTION OF COMPETITION FOR 2012

Belgrade, February 2013
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1. INTRODUCTION

In the past, 2012, the Commission for Protection of Competition (hereinafter: the Commission) has built its position and exercised public authority in resolving the rights and obligations of market participants in accordance with the Law on Protection of Competition ("Official Gazette of Republic of Serbia" No. 51/09, hereinafter: Law), through its activities to promote the rules of competition and competitive business environment, as well as through the international cooperation.

Achieved legal and institutional framework is the most important requirement for the effective treatment and resolution of the rights and obligations of market participants. Implementation of the provisions on measures for protection of competition and procedural breaches of competition, leniency, structural and behavioral measures, cease and desist orders as a checking mechanism of market behavior, and so on, has significantly contributed to the efficiency of the competition. The legal framework should be developed, bearing in mind the accession of Serbia to the EU and the dynamics of the market, both through further harmonization of certain legal provisions with the legal rules of the EU and the adoption of policies and guidelines, with the aim and purpose of creating a stable and distinctive business environment. Continuous compliance of the practice with the competition practice of the authorities in the EU is the aim that the Commission is trying to achieve.

Good work organization and effective commitment of resources, both human and financial, are necessary in a situation where the number of employees is considerably lower than projected and desired, and where the financial situation is unpredictable. Short term for treatment and time limitations are of particular concern.

Unfortunately, in the past year, issues of judicial review of decisions of the Commission, particularly the extremely slow action of the Supreme Court of Cassation when it comes to the protection of competition, have come to the fore.

Transparent, predictable and non-discriminatory implementation of the law is achieved through both uniform and known action of the Commission, and the court, which, up until now, has not been achieved, and through a series of activities aimed at informing the parties and the public about the work and views of the Commission.

Activities to promote the importance of competition (competition advocacy) are oriented towards the market participants and their associations (or at least the associations that are recognizable and familiar, for example. Serbian Chamber of Commerce, the Foreign Investors Council, American Chamber of Commerce in Serbia). Last year has also shown the great importance of attempt to make an impact on proponents of legislation, in the process of making laws and other acts, as well as other decisions of the executive branch that have an impact on economic trends in the country and foremost the impact on the state of the competition.
International cooperation, both bilaterally and within international organizations such as UNCTAD, OECD and the ICN, is a necessity in a world where economies and multinational organizations do not recognize limitations.

The Commission attaches a great importance to communication and cooperation with the European Commission, which has proved to be a great support in our ongoing effort to improve our work.
The European Commission (EC) in its Annual Progress Report of Serbia in the process of European integration for 2012 noted, that in the field of competition, some progress was achieved. Progress is, among other things, reflected in the continued implementation of modern institutes of competition, such as the program of exemption from obligation of paying of the measure for protection of competition and the adoption of acts related to the application of the competition rules on associations of the participants on the market and the detection of cartels in public procurement proceedings.

The Commission for Protection of Competition, according to the EC, has improved its work by hiring three economists in the past period. Also, the development of international cooperation through networking with other bodies for the protection of competition was positively appraised.

However, the European Commission concluded that Law on Protection of Competition has shortcomings that should be eliminated, especially in the part relating to the provision which provides that, in the case of revoked measure by the court, interest and other expenses are borne by the Commission as well as the provision defining the deadlines of time limitation for determining the extent of competition in the event of violation of the competition, which is currently 3 years. In addition, the EC evaluated that the deadline for testing the concentration, ex officio, should be extended. The European Commission evaluated that the Commission for Protection of Competition does not have sufficient staff and that it is necessary in the future to increase the number of employees who will be working on the cases.

The European Commission has made recommendations concerning the continuous improvement of the capacity of the Administrative Court, which address complex cases in the areas of competition. Institutional capacity building and activities to promote the importance of competition in the courts and public authorities must be, according to them, intensified. The European Commission noted that some government regulations, which were adopted without prior consultation with the Commission, may have a negative impact on the effectiveness of the competition policy in Serbia.
3. INITIATIVE TO ADOPT THE LAW ON AMENDING THE LAW ON PROTECTION OF COMPETITION

Starting from the findings and recommendations, set out in the Annual Progress Report of Serbia in 2012 and in the Report of UNCTAD on the state of competition in Serbia in 2011, and from our own observations and experiences, certain valid legal solutions have negative effects on the activities and legal certainty of the Commission. Commission initiated an amendment of the Law. In this manner, Commission had, that is, has the support of the European Commission and the support of General Directorate for Enlargement.

The Law on Amending should in certain segments of the Commission's activities, such as determining the abuse of dominant position, define clear and transparent criteria that will undoubtedly contribute to the quality of the proceedings before the Commission. The proposed definition of the dominant position of the parties in the relevant market is more comprehensive and more accurate compared to the definition in the Law. The limitation period for the imposition and payment of the imposed measures for protection of competition is changed. By proposed amendments of this article, the division of limitations related to the process of determining of violations and determining the measure for protection of competition (imposition) and the process of payment of imposed measures for protection of competition is achieved. The provisions are practically only in line with the relevant provisions of Article 25 and 26 of the EU Regulation 1/2003, which regulate the application of the competition rules set out in Articles 81 and 82 of the European Community Contract (now 101 and 102 of TFEU), as well as the proposal that was submitted by the Commission on December 19, 2012 to the European Commission. The prescribed period of limitation of three years from the date of the violation of competition in practice has proved to be too short. Given the complexity of the procedure, in particular the difficulties in the detection of violations of competition and especially judicial review of the decision as well as any possible trial for enforced collection, the Commission stated that this is a very short time, which negatively affects the effective implementation of the Law. Accordingly, if the proposed amendments are not accepted, the Law itself could prevent the payment of monetary sum for imposed measures for protection of competition. Assessment that the limitations period is too short is particularly emphasized in the European Commission Annual Progress Report of Serbia for 2012 and the Report of UNCTAD on the state of the competition in Serbia.

It is proposed to delete Paragraph 5 Article 57 of the Law, which establishes that interest "arising in the case of reduction of the amount or revoked measures is paid from the funds of the Commission." This formulation has been a serious and dangerous precedent in relation to the legislation of the countries in the region and the EU. Namely, the monetary amount from the measure is paid to the budget of the Republic of Serbia, which returns that monetary amount, that is its "principal", and the Commission, who does not use the funds paid to them and who may not
use those funds even in the event of eventual return, is obliged to pay interest. An additional disadvantage is reflected in the fact that the Commission is financed from its own resources in accordance with the Law. However, unspent funds in the current year, are transferred to the budget at the end of the year, which means that each following year, the Commission begins without any financial resources which could lead to the situation that the Commission will not be able to make the legal obligation to return the interest in the event that such obligation is occurs in the stated period.

Given the importance of the proposed amendments, in order to prevent negative effects on the body and to provide conditions for greater legal certainty of market participants, it was proposed to the ministry, that the Law needs to be passed urgently.¹

¹ In 2013, the Minister of Foreign and Domestic Trade and Telecommunications brought a decision establishing a working group to amend the Law on Protection of Competition, in which representatives of the Commission were appointed.
4. INSTITUTIONAL AND ADMINISTRATIVE CAPACITIES

4.1. Institutional capacity

The Commission is legally defined as an autonomous and independent organization which exercises public powers and which is accountable to the National Assembly. Its independence from the executive power is provided in the manner of election of the President of the Commission and the members of the Council, and with financial independence, given that the Commission is financed from its own resources and that it brings its annual financial plan on which the government agrees.

National Assembly of Serbia passed a Decision on the election of the President of the Commission and the Decision on the appointment of the members of the Council of the Commission ("Official Gazette Republic of Serbia", no. 73/2010). These bodies have worked, during 2012, in the same personal composition in which they were elected by the National Assembly.

The work of the Council of the Commission, in the strict sense, takes place at the meetings of the Council, where the decisions are made within the field of legal competencies of the Council. During 2012, 61 meeting were held. In a common organizational practice of the Council, prior to Council meetings, collegiate meeting is held, at which cases and issues, which will be on the agenda of the next Council meeting, are discussed. The work of the members of the Council of the Commission broadly includes, among other things: working meetings in the proceedings before the Commission, as well as meetings with representatives from the domestic authorities, international bodies and professional and trade associations; presentations at international and domestic scientific and professional gatherings; chairing conferences as well as publishing scientific papers in the field of competition - all for the purpose of its comprehensiveness and active promotion.

By the decision of the Council of the Commission, a Secretary was appointed (on internal announcement, from the employees), in accordance with the Law and the Statute of the Commission. Secretary manages Technical service.

Institutional upgrade of the Commission was accomplished in the 2010 and 2011, through the adoption of the Statute and other general and law acts, as stipulated by the Law on Protection of Competition and other laws and regulations.
In accordance with the Law on Personal Data Protection, in previous year, the Commission has established and maintained adequate records, which are registered in the Central Register of the Commissioner for Information of Public Importance.

4.2. Administrative capacity

Technical service of the Commission (hereinafter referred to as the Technical service) performs duties under the jurisdiction of the Commission in accordance with this Law, the Statute and other acts of the Commission.

Considering the needs of the Commission, and by applying the Regulation on internal organization and job classification, a total of 54 work positions in the Professional Service have been classified. As in the previous period, the number of employees is significantly lower, which is noted as one of the biggest problems in previous work of the Commission, which was also highlighted in all previous Annual Reports of the Commission. The reason for this situation is limited and unpredictable funding, as well as the unresolved issue of office space. Further strengthening of the administrative capacity of the Commission is necessary, bearing in mind both, the need for increased activities in identifying and punishing violations of competition, and the Serbia's obligations in the EU accession process in regard with harmonization of practice in this area, especially in activities to promote the objectives and significance of application of the rules of competition protection.

Qualification structure of employees is excellent, as can be seen from the following table. Among employees with higher education, 1 employee has doctorate in the field of economics; 3 employees have masters in the field of economics; 2 employees have completed postgraduate law studies; 5 employees have a master’s degree; 6 employees have passed the bar exam. All employees have passed the exam to work in public administration. More on continuous professional development of employees will be discussed in the part, of this Report, concerning the international cooperation, through which the program of continuous training of employees is achieved. As for the qualifications of the members of the Council of the Commission, two of its members have a doctorate in law and are professors at the University of Belgrade.

Number and qualification structure of employees by internal organizational units of the Commission, including the heads of sectors is shown in the following table:

<table>
<thead>
<tr>
<th>No.</th>
<th>Organization unit</th>
<th>Total</th>
<th>University</th>
<th>HS</th>
<th>SS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Sector for Appraisal of Concentrations</td>
<td>7</td>
<td>7</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2.</td>
<td>Sector for Detection of Violations of Competition</td>
<td>8</td>
<td>8</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>3.</td>
<td>Sector for International and Domestic Cooperation</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
Compared with the number of employees in the bodies of the Competition in neighboring countries (the former Republics of Yugoslavia), and compared with the European Union, stated number of employees of the Commission is well below the number of employees in bodies for protection of competition in these countries.

### 4.3. Financial Report

Financing of the Commission is an important segment of the institutional capacity and one of the basic conditions for the independence of the authorities. It is performed in accordance with the Financial Plan for each year provided by the Commission and submitted to the Government of the Republic of Serbia for approval, while previously obtaining the opinions of the relevant ministries.

Financial Plan of the Commission for 2012 was passed and the Government of the Republic of Serbia has approved the same, with the exception that in October a Decision on amending and the Financial Plan of the Commission for 2012 was brought, to which the Government has also given its approval. The reason for amending the Financial Plan of the Commission is the enforcement of obligations according to judgment of the Supreme Court Uzp 342/ from June 29 2012, which caused an increase in expenditures than it was originally planned, but this will be discussed in more detail below.

The Commission Council has adopted the Financial Plan for 2013 during 112. Session held on October 29 2012, which was immediately delivered to competent ministries for their opinion, meaning that the procedure for the approval of the Government has started. However, to this day, relevant ministries have not given their opinion (positive or negative), which means that the Government did not consider the Financial Plan for 2013. Therefore, the funding from January 1 2013 is performed on the basis of the Decision on Interim Financing, up to the amount of expenditure in the previous year, until Financial Plan is approved.

Such a situation also occurred in 2010. The European Commission, in its Annual Progress Report of Serbia in 2010, stated as a complaint the fact that the Commission does not have an approved

<table>
<thead>
<tr>
<th></th>
<th>Sector of Legal Affairs</th>
<th>3</th>
<th>3</th>
<th>0</th>
<th>0</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Sector of Economic Analysis</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>6</td>
<td>Sector of Material and Financial Affairs</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>7</td>
<td>Sector for normative legal, HR and General Administrative Matters</td>
<td>5</td>
<td>3</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>8</td>
<td>Outsourcing</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>2</td>
</tr>
</tbody>
</table>
Financial Plan. Also, in the second meeting of the Subcommittee on Internal Market and Competition, which was held in Brussels on March 21-22, 2011, the representatives of the European Commission stressed that the Government needs to support the work of the Commission, and in particular by adoption of the approved Financial Plan. As part of regular meetings with representatives of the European Commission, the importance of financial independence of the Commission was highlighted and in that sense, the Government needs to adopt the Financial Plan regularly, and therefore enables the smooth functioning of the Commission.

Revenues of the Commission are its own income, for which the purpose is not prescribed, and revenues include fees for the decisions and acts upon the request of market participants issued by the Commission, in accordance with the Law. In 2012, a positive financial result was achieved; the surplus is higher than planned and is 94,928,900.61 RSD. The surplus of income over expenditure, according to Article 32 of the Law, should entirety be paid to the budget of the Republic of Serbia.

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Planned 2012</th>
<th>Realized 2012</th>
<th>Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>INCOME</td>
<td>313,082</td>
<td>250,535</td>
<td>1.24</td>
</tr>
<tr>
<td>2</td>
<td>EXPENDITURE</td>
<td>218,154</td>
<td>250,499</td>
<td>0.87</td>
</tr>
<tr>
<td>3</td>
<td>SURPLUS</td>
<td>94,929</td>
<td>36</td>
<td></td>
</tr>
</tbody>
</table>

With the entry of the new Law on Protection of Competition into force, the Commission has "lost" the right to extract the reserves, which is unique case in Serbia, as all other organizations, including other regulatory bodies, have this right.

PLANNED AND REALIZED INCOME AND EXPENDITURE (IN 000 RSD)

Expenditures were fully financed from own income.
## STRUCTURE OF EXPENDITURES IN 2012

<table>
<thead>
<tr>
<th>POSITION</th>
<th>DESCRIPTION</th>
<th>PLANNED IN 2012</th>
<th>REALIZED UNTIL 31.12.2013.</th>
<th>REALIZED IN %</th>
<th>SHARE IN TOTAL EXPENDITURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>411</td>
<td>Staff remuneration and extras</td>
<td>87,390,663.00</td>
<td>83,418,849.00</td>
<td>95.46</td>
<td>38.24</td>
</tr>
<tr>
<td>412</td>
<td>Social contributions on behalf of the employer</td>
<td>15,895,928.68</td>
<td>14,640,723.00</td>
<td>92.10</td>
<td>6.71</td>
</tr>
<tr>
<td>413</td>
<td>Remunerations envisaged by Regulations</td>
<td>100,000.00</td>
<td>92,928.00</td>
<td>92.93</td>
<td>0.04</td>
</tr>
<tr>
<td>414</td>
<td>Social benefits to employees</td>
<td>1,800,000.00</td>
<td>665,617.37</td>
<td>36.98</td>
<td>0.31</td>
</tr>
<tr>
<td>415</td>
<td>Compensations for employees</td>
<td>1,582,272.00</td>
<td>977,200.00</td>
<td>61.76</td>
<td>0.45</td>
</tr>
<tr>
<td>416</td>
<td>Awards, bonuses and other special expenses</td>
<td>5,000,000.00</td>
<td>1,997,135.00</td>
<td>39.94</td>
<td>0.92</td>
</tr>
<tr>
<td>421</td>
<td>Permanent costs</td>
<td>26,000,000.00</td>
<td>22,515,964.51</td>
<td>86.60</td>
<td>10.32</td>
</tr>
<tr>
<td>422</td>
<td>Travelling costs</td>
<td>3,300,000.00</td>
<td>2,864,333.43</td>
<td>86.80</td>
<td>1.31</td>
</tr>
<tr>
<td>423</td>
<td>Contract services</td>
<td>13,430,539.51</td>
<td>12,706,462.74</td>
<td>94.61</td>
<td>5.82</td>
</tr>
<tr>
<td>425</td>
<td>Investment maintenance</td>
<td>500,000.00</td>
<td>119,252.46</td>
<td>23.85</td>
<td>0.05</td>
</tr>
<tr>
<td>426</td>
<td>Material</td>
<td>3,000,000.00</td>
<td>1,987,063.95</td>
<td>66.24</td>
<td>0.91</td>
</tr>
<tr>
<td>431</td>
<td>Fixed assets utilization</td>
<td>3,500,000.00</td>
<td>1,527,824.35</td>
<td>43.65</td>
<td>0.70</td>
</tr>
<tr>
<td>444</td>
<td>Borrowing associated costs (negative exchange rate)</td>
<td>4,000,000.00</td>
<td>29,440.00</td>
<td>0.74</td>
<td>0.01</td>
</tr>
<tr>
<td>482</td>
<td>Taxes, mandatory taxes and fines</td>
<td>83,500,000.00</td>
<td>74,287,454.05</td>
<td>88.97</td>
<td>34.05</td>
</tr>
<tr>
<td>512</td>
<td>Machinery and equipment</td>
<td>800,000.00</td>
<td>323,700.80</td>
<td>40.46</td>
<td>0.15</td>
</tr>
<tr>
<td>515</td>
<td>Intangible assets (software purchase)</td>
<td>700,000.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td><strong>TOTAL EXPENDITURE</strong></td>
<td><strong>250,499,403.18</strong></td>
<td><strong>218,153,948.66</strong></td>
<td><strong>87.09</strong></td>
<td><strong>100.00</strong></td>
<td></td>
</tr>
</tbody>
</table>
Hereinafter, we explain the most important positions.

- Earnings (position 411) are paid regularly, as well as corresponding liabilities. The shown amount represents the gross earnings and, besides paid net earnings, includes taxes paid on earnings and related contributions on behalf of employees.

- Taxes, compulsory fees and fines (position 482), constitute 34.05% of the total expenditures of the Commission, and they refer to interest paid by the Commission in December 2012, for the following reasons.

Commission’s Decision No. 5/0-02-607/2010-3 from January 24 2011 determines the measure for protection of competition in the form of payment of a monetary sum in the amount of 1.92% of the total annual revenue generated in the 2006, for the abuse of dominant position in the relevant market of raw milk by dairies in the Republic of Serbia by imposing unfair conditions of business and applying dissimilar conditions to equivalent transactions with different trading parties (producers of raw milk), determined by Commission’s final Decision No. 5/0-02-135/09-18 from 22 May 2009. Stated Decision determines the obligation for AD "Mlekara" from Subotica to apply a certain measure for protection of competition, in the form of payment of a monetary sum in the amount of 1.92% of the total annual revenue generated in the 2006, which 51,262,576.00 RSD in the favor of the budget of the Republic of Serbia. Also, the Decision determines the obligations for AD milk and dairy products industry "IMLEK" from Belgrade to apply a certain measure for protection of competition, in the form of payment of a monetary sum in the amount of 1.92% of the total annual revenue generated in the 2006, which is 254,885,759,00 RSD in the favor of the budget of the Republic of Serbia.

The Administrative Court in its judgment from April 21 2011 dismissed the complaint and confirmed the abovementioned Commission’s Decision which determines a measure for protection of competition, so the relevant Decision became final. On the basis of the final Decision, the parties have made a payment of measure for protection of competition in the budget of the Republic of Serbia on June 9 2011.

The aforementioned entities filed claims for exceptional review of both Decisions to the Administrative Court, which confirmed both of Commission’s Decisions (decision which determines an abuse and decision which determines administrative measure for protection of competition). The Supreme Court of Cassation, in its judgment Uzp 390/10 from October 28 2011, annulled the judgment of the Administrative Court by which the Commission’s Decision on established violation (abuse of dominant position) became final. In execution of a judgment of the Supreme Court of Cassation, The Administrative Court in its judgment 15 U 12773/11 (2009) from February 28 2012, accepted the claim and annulled the decision of the Commission on determining the violation of competition. The Commission for Protection of Competition has, in
the retrial, brought a new Decision 5/0-02-233/2012-12 from August 9 2012, which determines the abuse of a dominant position by these companies.\(^2\)

According to the Supreme Court of Cassation, the grounds on which Commission made a Decision on implementing the measure for protection of competition were undefined. Based on this evaluation, The Supreme Court of Cassation, after one year upon failing a request, made a decision Uzp 342/11 from May 29 2012, which reversed the earlier judgment of the Administrative Court from April 21 2012, and overturned the Decision determining the extent of competition (decision which ordered the payment of a monetary sum). This judgment does not require retrial or reconsideration. This judgment was delivered to the Commission on August 6 2012.

In accordance with the Law on Protection of Competition (Article 57) interest and other costs in case of cancellation or reduction of the amount of administrative measures, shall be paid from the funds of the Commission. Tax Administration, Regional Center Belgrade, Palilula Branch, brought a Decision which approved the refund of amounts paid on behalf of measures for protection of competition to IMLEK AD Belgrade, and Tax Administration, Regional Center Novi Sad, Branch Subotica, made a Decision which approved the refund of amounts paid on behalf of measures for protection of competition to MLEKARA AD Subotica.

The Commission for Protection of Competition paid the interest on December 13 2012.

\[
\begin{array}{ll}
\text{MLEKARA AD Subotica - interest payment - SCC 342/11} & \text{12,475,805.76} \\
\text{IMLEK AD Beograd – interest payment – SCC 342/11} & \text{61,759,228.29} \\
\end{array}
\]

\[\text{Sum: 74,235,034.05}\]

which is 34.05% of the total expenditures of the Commission in the 2012? We note that the amount paid as interest is extremely high, among other things, because a payment is made to the budget in June 2011, and SCC reversed the Commission's Decisions by judgment which is submitted to the Commission on August 06 2012, while the proceedings in front of the SCC was initiated on July 1 2011. Unfortunately, the Law provides only the obligation for the Administrative Court to decide within 2 months in an administrative proceeding against the Commission's Decision, but not the obligation of the Supreme Court of Cassation to decide within a reasonable time by an exceptional legal remedy. From the time when the proceedings were instituted in front of the SCC and by the time the Decision was delivered, more than a year has passed, interest was calculated. We believe that the time that it takes for the Supreme

\(^2\) The judgment no. 11913/12 from 27.12.2012. of the Administrative Court confirms Commission's decision
Cassation Court to decide, adversely affects the right for a fair trial, especially as it is a trial on the final decision.

- Fixed costs (position 421) constitute 10.32% of total expenditure, and they relate to the leasing of the office space and to associated costs. The Commission uses office space under Lease Contract no. 3/07-13/09-20 from May 5 2009, concluded with the company "BEO INVEST 2009" d.o.o. Belgrade, as a lessor. The Commission had originally signed a five-year contract with the lessor (2007-2012) which expired on December 15 2012.

We consider that it is expedient that the Commission uses the appropriate office space owned by the state or local government, because it would provide long-term and / or permanent solution to this issue, and the uncertainty and risk of actually existing termination and relocation would be avoided, as well as significant cost savings. However, all efforts in this direction were unsuccessful. Considering that a five-year contract signed with the lessor (2007-2012) ends by the December 15 2012, The Commission addressed timely request for allocation of adequate office space to the Ministry of Foreign and Domestic Trade and Telecommunications, which was forwarded to the Directorate of Property Owned by the Republic of Serbia. At the end of last year and at the beginning of 2012, we addressed to the City of Belgrade, but without any success. Because of the above, and after considering other advertised offers to lease office space, The Commission has been forced to extend the lease of office space for 3 more years with the same lessor, but with the decreased rental rates (compared to the previous contract, the rent is reduced by 15.2%).

According to the Law on Public Procurement ("Official Gazette"), the Commission has, in accordance with its Procurement Plan for 2012, conducted public procurement procedures. During the year, Procurement Plan was successfully implemented, and 11 public procurements for the purchase of low value goods and services were conducted. The subject of these purchases were goods (office equipment) and services (physical and technical security, cleaning and maintenance of premises, reservation services and airline tickets, services necessary for the purposes of the annual conferences and seminars in the field of competition, etc.). The total value of the realized purchase is 4,391,000.00 RSD, without VAT, provided that this amount includes the procurement of services and security protection for the 2013, in the amount of 2,070,000.00 RSD. The remaining amount of 2,391,000.00 RSD represents procurements for 2012, which are the following:

- Goods (office materials) in the amount of 782,000.00 RSD
- Services (physical and technical security, cleaning and maintenance of office space, booking and securing airline tickets and hotel services) in the amount of 1,609,000.00 RSD.
5. VIOLATION OF COMPETITION

REVIEW OF THE PROCEDURES CONDUCTED WITHIN THE SECTOR FOR DETERMINING VIOLATIONS OF COMPETITION IN PERIOD JANUARY 01, 2012 TO DECEMBER 31, 2012

<table>
<thead>
<tr>
<th>Type of procedures</th>
<th>Total number of procedures</th>
<th>Completed procedures</th>
<th>Procedures during 2012, as of 31/12/2012</th>
<th>Work efficiency by case (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restrictive agreement</td>
<td>11</td>
<td>7</td>
<td>4</td>
<td>63.63</td>
</tr>
<tr>
<td>Abuse of dominant Position</td>
<td>9</td>
<td>5</td>
<td>4</td>
<td>55.55</td>
</tr>
<tr>
<td>Individual exemption of the agreements from prohibition</td>
<td>15</td>
<td>14</td>
<td>1</td>
<td>93.33</td>
</tr>
<tr>
<td>Initiatives to institute Proceedings before Commission and notifications</td>
<td>36</td>
<td>29</td>
<td>7</td>
<td>80.55</td>
</tr>
<tr>
<td>Other</td>
<td>21</td>
<td>21</td>
<td>0</td>
<td>100</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>92</strong></td>
<td><strong>76</strong></td>
<td><strong>16</strong></td>
<td><strong>82.60</strong></td>
</tr>
</tbody>
</table>

Efficiency in the work of the Sector for determining violation of competition, expressed as a ratio of total the number of resolved cases and total number of guided procedures, including cases ON giving opinion on the implementation of regulations in the field of competition, which are presented in the final summary tables of Commission activities in the 2012, is 84.25%.

5.1. Key moments

The forms of violations of competition are restrictive agreements, prescribed and defined in Article 10 of the Law, and abuse of dominant position, prescribed and defined by Article 16 of the Law. As far as the actions of the Commission in this area, as most important once we provide the following:

- In all cases in which a violation of competition is determined, the Commission imposes measure of behavior, even though it is prescribed by the Law as a possibility, not as an obligation. These measures, ordering or prohibiting certain conduct, prevent or at least
reduce the possibility of such or similar forbidden conduct of the business parties in the future, which results in a special prevention.

- One of the biggest challenges for the effective protection of competition is detection of committed violations. In order to encourage market participants to revile or to inform on the existence of a restrictive agreement and their participation in the same, so-called LENIENCY Institute is established which is also taken over by our legislature. These provisions provide that under the terms of the Law (Article 69), a market participant who reports a restrictive agreement, may be released from the obligation to pay monetary amount, although it committed a violation of competition. The Commission began the implementation of this Institute during last year.

- The aim of prosecuting violations of competition can not only be monetary fine. On the contrary, it is only necessary but least desirable outcome of the proceeding. In this sense, the Law provides the possibility for the Commission to suspend the proceeding, under the conditions subscribed by the Law (Article 58) for a maximum of 6 months. It is understood that the party stopped and withdrew from further violation of competition and that its business complies with the Law by adopting appropriate legislation and / or in some other appropriate way. If the party fails to comply to fulfill its commitment prior to the deadline expiration or in the meantime commits a new violation of competition, the Commission will continue the proceeding. Up until now, it has been noted that public companies established by the local government, violate the Law because of incomplete understanding of the rules of competition, and are usually ready to comply their business with the Law. On the other hand, operation of public companies established by local government significantly influence the satisfaction of everyday needs of citizens, as well as the survival and development of small and medium-sized enterprises, because of which they initiate the procedure. By using this Institute, protection of competition is achieved while market participants are not burden with fines.

- Processing and identification of violations of competition with final and binding decisions, Commission has a significant effect in the case of exemption from payment of monetary fine as a measure of protection of competition, as well as when there are no conditions to determine the measure for protection of competition, as in some cases driven by the previous Law. In all cases where the violation of competition is determined, regardless of whether the measure was imposed or not, indemnification caused by acts and practices which represent a violation which is determined by the decision of the Commission (private enforcement) may be achieved. Indemnification process is achieved in civil court proceedings, and the Commission is aware that certain number of indemnification proceedings has started, for example, in the case of abuse of dominant position by IMLEK and Mlekara Subotica.
- The measure of procedural penalty has proven to be a very efficient mechanism for collecting evidence. Once the Commission has shown its willingness to implement this provision, the purpose of this provision is also exercised by ordering evidence under threat of determining the measure of procedural penalty. Timely and complete behavior of the parties and other market participants, significantly affects the flow and the length of the proceedings.

- Measures for protection of competition are particularly important and delicate Institute and they will be specifically discussed.

- In the implementation of competition rules, Commission continues to pursue economic oriented approach by estimating the actual and potential economic effects and complementing it with the analysis of legal form or forms of a particular behavior of the market participants. A comprehensive review and fact-finding is achieved, among other things, by detailed observation of the structural characteristics and the competitive dynamics of related industries and the behavior of market participants by calculating the index of market concentration (NNI, concentration ratio), monitoring of short-term and medium-term trends, taking into account seasonal variation, as well as with other techniques of descriptive and inferential statistical analysis. The problems that the Commission faced, while collecting and processing the data and while assessing their comparability led to the conclusion that in many industries there are no updated aggregate statistics data about natural and value turnover in all phases of turnover cycle. Also, the way of product classification of headings and subheadings, more precisely the principle of classifying products in the Customs Tariff in accordance with the current nomenclature, is not always fully compatible with the needs of the Commission in determining the boundaries of relevant market, calculating market participant shares as defined in the relevant market and their real market power.

5.1.1. Cases completed in the administrative procedure

*Joint stock company "Mlekara" from Subotica and Joint stock company Milk and dairy products industry "Imlek" from Belgrade*

It was determined by the decision that Joint stock company "Mlekara" from Subotica and Joint stock company Milk and dairy products industry "Imlek" from Belgrade, Padinska Skela, have a dominant position in the relevant market of purchasing of raw milk in the territory of the Republic of Serbia and that they abused that position by imposing unfair business conditions and applying dissimilar conditions to equivalent transactions with other market participants (producers of raw milk). The Decision was made in the repeated proceeding by the court ruling. Even during the pre-trial, the parties have acted according to the imposed measure of behavior and they have complied, more precisely, they have changed conditions of the contract which
imposed unjust and unequal conditions. The final Decision, which determined the measure of protection of competition, was reversed by the Supreme Court of Cassation. Considering that in the meantime statute of limitations occurred regarding the measure of protection of competition, the same cannot be determined once again in this case. To the knowledge of the Commission, indemnification by a private lawsuit is in progress.

Against the stated decision administrative proceedings is initiated. By the decision 5U 11913/12 from December 27 2012, the Administrative Court dismissed the claims of the parties, meaning that the final Decision of the Commission become valid.

"Frikom" JSC Belgrade

It is determined in the Decision that Frikom abused its dominant position in the relevant market for wholesale of industrialized ice cream in the Republic of Serbia, in a way that in its standard contracts which were implemented in 2008-2010, and in a number of contracts after 2010, which Frikom concluded with its customers - retailers: imposed exclusive purchasing obligation of the relevant products of Frikom, with direct and/or indirect prohibition on the sale of competing products, with contracting an exclusivity of the products in cooling devices and in retail stores; developed system of incentives and incentive customers – retailers with decisive influence on business decisions of buyers to opt for Frikom as the sole supplier of relevant products; imposed an obligation to customers - retailers that, in unreasonably large amounts, reimburse to Frikom for damages in the event if they do not comply with contractual obligations, while the provisions in respect of the resale price, the exclusivity of the goods in cooling devices and in retail store – are important contract provisions whose violations creates this obligation on the side of the buyer; contracted inappropriate and unjustified short deadlines in which Frikom could exercise its right to unilaterally terminate the contract in case the customer-retailer fails to fulfill contractual obligations, in particular those set out in the relevant provisions regarding the application of the resale price and the exclusivity of cooling devices in retail stores; contracted and applied different conditions of the same transactions with different customers-retailers, especially in terms of payment terms, returns in the event of poor performance of sales and expiration date, as well as deadlines the termination of the contract. It was determined in the procedure, as described above, that a violations of competition occurred under Article 16 of the Law, with the aim of weakening and extrusion of the existing market competition and creating significant barriers to entry for new competitors, while strengthening their own dominant position in the market, which had the effect of significant limitation and discrimination of competition in the relevant market. In accordance with a legal obligation, the same Decision determined the measure for protection of competition in the form of mandatory payment of a fine in the amount of 4% of the total annual revenue generated in the 2009, which amounts to 301,950,520.00RSD. In addition to measures for protection of competition, stated Decision identified and an appropriate measures to eliminate violations of competition through measures of behavior, as well as the terms in which Frikom is obliged to carry out all measures ordered.
Against the final decision of the Commission an administrative procedure is initiated and is in progress.

The Company for trade and services EKI TRANSFERS d.o.o. from Belgrade and the Company for brokerage, consulting and services TENFORE d.o.o. from Belgrade

It is determined in the Decision that "Eki Transfers" and "Tenfore" abused their dominant position in the relevant market of cross-border money transfer between natural persons, without opening an account, in the territory of the Republic of Serbia, by contracting restrictions in agreements on cooperation concluded with 24 commercial banks, with the possibility of automatic renewal, which form a network of Resellers Contracts, as follows:

- provisions on the obligations in terms of "loyalty" and "exclusivity", as during and after the expiry or in the event of termination of the contract concluded by the two companies and

- provisions which establish the obligation to pay a sum of money in the name of criminal penalties for violations of the "obligation in terms of loyalty" in the course of duration or after the event of termination of the contract, in contracts concluded with "Eki Transfers" by which they prevented and restricted competition, that is, limited the market and the technical development to the detriment of consumers.

Administrative Court judgment rejected the lawsuit filed by the Company for trading and services "EKI Transfers" d.o.o. from Belgrade and the Company for brokerage, consulting and services "TENFORE“ d.o.o. from Belgrade, by which the Decision become final.

The Company for trade and services EKI TRANSFERS d.o.o. from Belgrade and the Company for brokerage, consulting and services TENFORE d.o.o. from Belgrade

For legally determined violation of competition (previously described), the measure for protection of competition in the form of the obligation to pay a monetary sum is determined to the "Eki Transfers" in the amount of 3.6% of the total annual revenue generated in the 2008, which amounts to 7,611,156.00 RSD and to "Tenfore" in the amount of 1.8% of the total annual revenue generated in the 2008, which amounts to 169,092.00 RSD, with an order to make payment to the budget of the Republic of Serbia.

Idea d.o.o, Belgrade – Concern Swisslion Takovo d.o.o. Belgrade, Swisslion d.o.o. Belgrade, the Company Takovo a.d. Gornji Milanovac, Takovo Agrar d.o.o. Gornji Milanovac – in bankruptcy

It was determined in the Decision that it is the matter of violation of competition and in the form of prohibited restrictive agreement. As prohibited restrictive agreement, provisions of the Annex-Annex - Other terms of cooperation in the Purchase Agreement for 2009 are stipulated, which defined the selling price in further sale, which significantly violated competition in the retail sale
of food products from the program of confectionery products, processing of fruits and vegetables, baby foods, mostly in non-specialized stores of food products and other consumer goods in stores, discount stores, supermarkets and hypermarkets in the Republic of Serbia.

The measure for the removal of violation of competition is ordered which explicitly prohibits these companies any further treatment as described above as well as any other action that has the same or similar object or effect.

Since the Decision was made in the process of the court ruling, meaning that the Decision is legally binding, both companies have exercised the right that a measure for protection of competition is not imposed to them. In the previous Decision, to the company Idea d.o.o. a measure for protection of competition was imposed, while the company "Swisslion Group" was liberated from the obligation of payment of a monetary sum as a measures for protection of competition, because it fulfilled the requirements under Article 69 of the Law and first reported the existence of a restrictive agreement and their participation in it, and in the process it was determined that it was not an initiator. However, explanation of the judgment of the Administrative Court, states that both companies gain the right that the measure for protection of competition is not imposed to them, as they reported the existence of a restrictive agreement in the regime of validity of the previous Law under which provisions they have acquired that right. Under the previous Law, that right is acquired also by the party that was not the first to report the agreement, that is, the party who reported the agreement after Commission learned about it, and regardless if it was the initiator or not. Otherwise, Idea submitted its application on December 30, 2009, and the new Law came into force on November 1, 2009, although it entered into force in July 2009. The complaint was not submitted and the Decision became final.

*Idea doo, Beograd - Grand Prom d.o.o, Belgrade*

It was determined in the Decision that Grand Prom d.o.o. a company for production, sales and services, Belgrade, as the seller, and Idea d.o.o. a company for domestic and foreign trade, Belgrade, as a buyer, concluded prohibited restrictive agreement, in a way that in the provisions of Annex I - The main commercial conditions and fees of the Purchase Agreement no. 0058/2009 from March 5, 2009, in the section titled "Rebates", they concluded an obligation for the seller to approve the customer 2% rebate for compliance with the recommended price by the seller within the basic rebate of 10% of the invoice for the products from the production program "Grand", "Argeta" and "Stark", which significantly violated competition in the retail trade mostly in non-specialized stores of food products and other consumer goods in stores, discount stores, supermarkets and hypermarkets in the Republic of Serbia.

The measure for removal of violation of competition was imposed, explicitly prohibiting to these companies any further treatment as described above as well as any other action that has the same or similar object or effect. The measure for protection of competition is imposed to the company "Grand Prom d.o.o, Belgrade", in the amount of 0.9% of the total annual revenue generated in the
2008 (112,439,961.00 RSD). The payment of this amount to the budget of the Republic of Serbia within three months is ordered. Idea Company d.o.o. has made the right not to be imposed by a measure for protection of competition because it reported an existence of a restrictive agreement and their participation in it. It should be noted that this Decision was made in the process of execution of court decisions and legal opinion of the court that the agreement must be evaluated in the regime of the previous Law, as it was filed before the new Law came into force, although it was already in force.

By the judgment of the Administrative Court 15 U. 12831/12 of 22.11.2012, the claim of the "Grand Prom d.o.o, Belgrade" was partially accepted, and it annulled the Commission Decision from September 20 2012, in the part where a measure for protection of competition is imposed to this company, on the grounds that the existing Law did not apply when the restrictive agreement is concluded, regardless that the company" Grand Prom d.o.o, Belgrade" has not reported a restrictive agreement. Upon finding of the court, the new act is not required. In the remaining part, Decision is confirmed.

According to this view of the court, the company "Grand Prom d.o.o, Belgrade" remained unpunished for the legally determined violation of competition, caused during the time of the previous Law on Protection of Competition ("Official Gazette of RS ", No. 79 / 05), according to which this kind of violation of competition - a prohibited agreement was considered as a misdemeanor, punishable by a fine imposed by the competent magistrate required by the request of Commission for the initiation of the procedure. However, at the time of initiation of this proceedings to determine violation of the competition, implementation of the new Law begun, by which violations of competition are not prescribed as an offense, meaning that there was no basis to proceed, especially given the view of Magistrate Court, on which will be further discussed.

Big Blue Group d.o.o. Belgrade

Based on the initiative submitted in 2011, the Commission has reasonably assumed a violation of competition under Article 16 of the Law and initiated an ex officio proceedings against the company Big Blue Group d.o.o. Belgrade, according to the Conclusion of the President of the Commission for Protection of Competition No. 5/0-02-326/2012-1 from April 19 2012. The proceedings was initiated against the above stated company, as an official agent for the sale of tickets for the Olympic Games in London 2012, in order to examine the existence of violations of competition within the meaning of Article 16 of the Law on Protection of Competition, conditioning the conclusion of contracts on the purchase of tickets for the Olympic Games, in a way that the other party accepts additional obligations which, by their nature or according to commercial usage, have no connection with the subject of the contract, that is, to conclude a contract for the purchase of tourist arrangements, which includes transportation, accommodation and other facilities to the buyers of the ticket, during its stay in London.
During the examination procedure it was found that sales of tourist packages is associated with the sale of tickets and that the official sales agent announced the sale of individual tickets, without travel arrangements, on the basis of which the Council of the Commission concluded that elements of violation of competition of Article 16 Paragraph 2 item 4 of the Law were not determined during the examination procedure, and in this sense by Conclusion from December 19 2012, a procedure to determine the existence of violations of competition was suspended.

"Serbia Broadband – Srpske Kablovske mreže" d.o.o. Belgrade

By the Judgment of the Supreme Court on November 11 2012, a request from "Serbia Broadband – Srpske Kablovske mreže" d.o.o. Belgrade for the review of the judgment was refused - the judgment of the Administrative Court from November 6 2012, brought upon the claim of this company to the decision of the Commission in the reprocess from October 4 2012, which determines the abuse of dominant position by "Serbia Broadband – Srpske Kablovske mreže" d.o.o. by conducting promotional activities in the township of Palilula and Stari Grad in March of 2006.

5.1.2. Administrative procedures in progress

"Telekom Srbija" a. d. from Belgrade

Against the company "Telekom Srbija", a joint stock company from Belgrade (hereinafter: "Telekom Srbija"), the company " ORION TELEKOM TIM" d.o.o. from Belgrade and the Association of Internet Service Providers of Serbia from Novi Sad, submitted an initiative for examining the violations of competition under Article 16 of the Law. The administrative procedure was initiated due to the existence of a reasonable doubt that the company "Telekom Srbija" committed an abuse of dominant position. That company has offered wholesale services to operators who are its competitors in the retail market at prices that were higher or at the price that is applied to retail for its end-users during the implementation of promotional campaigns in the period from June 1 to July 31, 2011. The examination procedure will appreciate the circumstances of the enforcement of the stated action, and the fact that the present action is not the only one that the company "Telekom Serbia" implemented in the retail market of internet in the past, particularly bearing in mind the fact that this company is vertically integrated active participant, between other things, in the market for direct internet access, as well as in the wholesale and retail market.

In an analysis of data available to the Commission, the Commission will in particular, but not exclusively, appreciate contractual obligations of internet operators which in the wholesale market supply from the company "Telekom Srbija", and which refer to the price, the date on which the contract is concluded, and the extension of the term of the contract, regarding the requirements for increasing the width of the flow or lease a significant number of ports in the wholesale market. Also, the fact that all carried out actions in the retail, had as their consequence
a binding of end user on contract period, which is usually 12 or 24 months, will be taken into account.

Public Company "Stan" from Užice

Acting on the initiative of the examination of the violation filed against the Public Company Stan from Užice, the Commission sent notes to the City Council and to the PC Stan from Užice with a recommendation to reconsider the Decision on conditions for including in unified collection (in the following text: SON) of fees of other providers, issued by the Board of PC Stan during session in order to create favorable conditions for including private servicers in SON. Namely, the Decision from August 24 2011, with a relatively high fee, which is charged for this service from other service providers by PC Stan, raised the threshold of the minimum monthly amount that needs to be accomplished, and which was also approved by the City Council of Užice.

Given that JP Stan filed a response that was not acceptable in terms of the Law, and the City Council did not plea, the ex officio procedure against JP Stan from Užice was initiated, in order to determine the existence of an act of abuse of dominant position in the market of services for maintenance of elevators in residential buildings in the town of Užice, in terms of Article 16 of the Law on Protection of Competition.

Immediately upon receipt of the Conclusion on the initiation of the proceedings, a party in the proceedings submitted evidence to the Commission that the City Council, though it has not notified the Commission, however, timely complied with the Commission's recommendations. Immediately after the initiation of the proceedings, by executing the decisions of the City Council, PC Stan by a new Decision of its Board of Directors changed the Decision that was the subject of the investigation procedure, taking into consideration all the recommendations of the Commission.

Given the actions of the City Council on the recommendation of the Commission, as well as acting on the decisions of the City Council by the party in the proceedings, the Commission estimated that the competition is violated in an minor extent, and due to the fact that a party in proceedings committed not to repeat the act or acts that substantially restricts, distorts or prevents competition, the Commission suspended the proceedings for a period of 6 months in terms of Article 58 of the Law.

Serbian Chamber of Engineers

An ex officio proceedings was initiated against the Serbian Chamber of Engineers, in order to investigate the existence of the violation of competition - restrictive agreement, pursuant to the provisions of Article 10 Paragraph 2 Point 1 of the Law, created by imposing the Decision on how to price design services for buildings no. 469/1-13.1 from March 31 2008, and the Decision on the method of determining the minimum price of the development of spatial plans, urban plans, urban designs and design documentation for residential and residential- commercial
buildings no. 3707/1-4 from July 17 2006, as a kind of restricted ( prohibited ) agreements aimed significantly to restrict, distort or prevent competition in the Republic of Serbia, through the establishment of minimum prices and services for members of the Serbian Chamber of Engineers. Challenged decisions are taken in accordance with the Regulation on the conditions and procedure for revocation of the license for the responsible urban planner, architect, contractor and planner ("RS Official Gazette", no. 116/04 and 69/06).

The procedure for determining a violation of competition was interrupted for a period of 6 months, in terms of Article 58 of the Law. Conclusion to terminate the procedure was brought at the request of the parties, bearing in mind that the party made the existence of legal error in the application of Article 10 Law on Protection of Competition probable, on the criteria and parameters for pricing the design and development of spatial planning, urban planning, urban development projects, and in connection with the obligation under Article 10 Paragraph 1 Item 5 of the Regulation on the conditions and procedure for revocation of the license for the responsible urban planner, architect, contractor and planner ("RS Official Gazette", no. 116/04 and 69/06), that is, it was not aware of the circumstances that adoption of the contested decision will lead to the violation of competition. The Commission accepted the assessment of the party in the proceeding that by making contested decisions, competition is violated in a minor extent. The fact that the Board of Directors of the Chamber revoked the contested decision and the fact that they are not subject to disciplinary action for violation of the above decisions, was taken into account. By Conclusion to terminate the procedure, the parties in the proceedings are bound, during the duration of the interruption of the proceedings, not to continue or repeat an action or an act that substantially restricts, distorts or prevents competition.

"COCA-COLA HELLENIC BOTTLING COMPANY - SRBIJA Industrija bezalkoholnih pića DOO", Београд-Земун

The examination procedure was initiated because of a suspicion that the Coca Cola Hellenic Bottling Company – Србија Industrija bezalkoholnih пица А.Д. Београд-Земун, in a business relationship with its customers/"partners" undertook acts and practices that could be contrary to the provisions of Article 16 of the Law on Protection of Competition (abuse of dominant position). This applies particularly, but not exclusively, to the contractual provisions setting out the types of rebates, procedures, terms and conditions for the exercise of the right for their payment.

In the examination procedure, the Commission presented evidence and determined the relevant facts and circumstances under which the contracting and business procedures of "Coca Cola" were undertaken with its customers. In this respect, the Commission has collected and reviewed data from 16 companies active in the market for non-alcoholic beverages, from 68 companies active in the market of buying and further distribution of non-alcoholic beverages throughout the territory of the Republic of Serbia, as well as from the parties. On December 25 2012, a notice on
the relevant facts, evidence and other elements in the proceedings was sent to the party in the proceedings.

PUC "Pogrebne usluge" from Belgrade

Based on information obtained from the craft store that offers stonecutting services it was concluded that the PUC "Pogrebne usluge", Belgrade charges to the user of the burial place an approval for the installation of a new monument from the side of the craft (Stonecutter) store in the amount of 9,000 RSD, in such a way that it issues a bill for compensation for installation of monuments, fees for preparation and coating, and fees for installation on each object, which are the fees prescribed in the Price list of other services of the PUC "Pogrebne usluge" from February 18 2011, Section V Compensation for work within the cemetery from the side of the craft store. Decision no. 38-1250/11 from March 23 2011 brought by the Mayor of the City of Belgrade ("Official Gazette of Belgrade" No. 8/11) approved for the above price list.

From the above stated, arose a reasonable assumption that the party in the proceedings PUC "Pogrebne usluge" uses the authorities of managing the cemeteries as delegated activities and imposes unreasonable conditions that ultimately affect consumers - users of burial places, especially in view of the costs of issuance of an approval, which is a form of abuse of dominant position, which PUC "Pogrebne usluge" undoubtedly possesses as a company that manages the cemeteries of the City of Belgrade.

During this process, the presence of other actions by the side of PUC "Pogrebne usluge" is being examined for which there is a reasonable doubt that they represent an abuse of dominant position.

Delta Generali Osiguranje, Dunav Osiguranje and Wiener Städtische Osiguranje

On the basis of the initiative, submitted documentation and additional collected information, the Commission has reasonably presumed the existence of violations of competition under Article 10 of the Law and it has initiated ex officio proceedings against Delta Generali Osiguranje a.d.o. Belgrade, Dunav Osiguranje a.d.o. Belgrade and Wiener Städtische Osiguranje a.d.o. Belgrade. The proceedings were initiated against the above stated insurance companies because they have entered into a consortium agreement in order to submit a joint offer in a public procurement procedure on insurance and reinsurance of aviation fleet, which was conducting by joint stock company for air transport Jat Airways Belgrade. The contract is a horizontal restrictive agreement for which individual exemption from the prohibition in terms of the Law has not been approved.

The procedure for determining a violation of competition was canceled on March 22 2012, for a period of 6 months. Conclusion on the termination of the procedure was passed at the request of the parties, bearing in mind that the parties have made the existence of legal error probable, in terms of the application for an individual exemption from the prohibition of restrictive agreements at the time of conclusion of the Agreement on the consortium. Also, according to all the circumstances of the present case, it was estimated that the allegations of the applicants were
reasonable, that the violation did not cause damage to other market participants, and in the case if insurance services were not provided by the relevant agreement, the national carrier would probably lost the necessary licenses to perform basic activities.

"Nis Ekpres" a.d. Nis and "Jeremić prevoz" d.o.o. Nis

The subject of the procedure is a restrictive agreement which establishes a single price. By Protocol on the joint performance of passenger transport on the relation Pirot-Babušnica, signed on August 24 2008, between the parties, which are competing with each other, it was agreed that: Jeremić prevoz abolishes the return ticket; both parties reduce the number of departures from September 1 2009, initially for one departure in both directions; selling of monthly tickets is performed by Niš Ekpres for both transporters, with a commission of 7% of revenues; at the end of month, Nis Ekpres constitutes a calculation of monthly ticket sales, while 50% earned income belongs to Jeremić prevoz, and 50% to Nis Ekpres; etc. The procedure is in its final stage, and the parties submitted the Notice of the relevant facts, evidence and other elements in the repeated proceeding, on which a new final decision with reference to the statement is going to be based.

This procedure is repeated, since the Administrative Court - Department of Niš issued in July 2012 the verdict that has annulled the Commission's Decisions which imposed a measure for protection of competition to joint stock company "Nis Ekpres" in the amount of 0.6% of the total annual revenue generated in 2010, which amounts to 21,650,850.00 RSD, while the company "Jeremić prevoz", as an applicant was released from the obligation to pay a sum of money of a measures for protection of competition. Previous Decision was canceled "due to violation of the rules of procedure referred to in Article 199 Paragraph 2 of the Law on Administrative Procedure" and the case was sent back for retrial. Upon termination of the application of the Protocol, the ticket price for both transporters is significantly lower compared to the prices in the period of application of the Protocol, from which it can best be seen what effect this agreement had.

Assessing this judgment as an illegal, because it is based on an incorrect assessment of the evidence and incorrect application of the Law on Administrative Disputes, the Law on Administrative Procedure and the Law on Protection of Competition, and finding that the same judgment is incomprehensible, contradictory and contrary to the situation in documents, the Commission submitted to the Supreme Court of Cassation a request for review of the judgment.

"Lasta" a.d. from Belgrade and "Europe-Bus" d.o.o. from Valjevo

Subject of the procedure is the restricted agreement on joint performance of passenger transportation on the routes specified in the contract, which establishes a single ticket prices, and thus greatly restricts and distorts competition in the relevant market of public transportation by bus line on the relation Valjevo-Belgrade-Valjevo. The procedure is in its final stage, and the parties submitted the Notice of the relevant facts, evidence and other elements in the repeated proceedings, on which a new final decision with reference to the statement is going to be based.
This procedure is repeated, since the Administrative Court annulled the previous Decision, which imposed a measure for protection of competition to these companies in the amount of 1.38% of the total annual revenue generated in the 2009 ("Lasta" a.d. from Belgrade in the amount of 117,248,070.00 RSD, "Europe-Bus" d.o.o. from Valjevo in the amount of 1,737,765.00 RSD). The Decision was canceled due to "violation of the rules of procedure referred to in Article 199 Paragraph 2 Law on Administrative Procedure" and the case was sent back for retrial. Stating that this judgment was unlawful, the Commission.

5.1.3. Measures for protection of competition

The abuse of dominant position and restrictive agreements, one of which is part of the horizontal agreements in general public known as cartel agreements, represent a violation of competition that are sanctioned in all countries with market economies. Sanctions for these market participants always consist of the obligation to pay a certain monetary amount. Some legal systems sanction the responsible person in legal entities who committees the violation of competition. Fines are determined as a percentage of the revenues of the perpetrator of these violations in the European Union, USA, Russia, Japan and so on. The reason for this stringent sanction lies in the fact that free market competition is not a goal for itself, nor is it its goal to realize the rights of the stronger. The market economy is the model through which, for the most part, economic progress and well-being of society as a whole is being achieved, and that is why public authority prescribes sanctions for perpetrators of acts that prevent, restrict or distort market competition. Serbia is not and should not be an exception. Hereinafter, we would like to acknowledge some of the moments that caused differences in opinion among experts.

Measures for protection of competition (hereinafter: measures) shall be determined in accordance with the Law and the Regulation on criteria for determining the amount to be paid based on the measure of competition and procedural breaches, the method and deadlines for their payment as well as conditions for the determination of these measures ("Official Gazette of RS", No. 50/2010). Bearing in mind the obligation stipulated in the Stabilization and Association Agreement (SAA), the Commission, during 2011, adopted the Guidelines for the implementation of this Regulation, pursuant to its authority under Article 21 Paragraph 1 Item 5 of the Law, to make regulations which will more closely define its behavior. The same are published on the website of the Commission. Please note that the associations of market participants suggest adopting guidelines for application of other applicable Regulations, precisely because of the predictability and transparency of the conduct of the Commission.

The guidelines do not bind the parties in the proceedings; however they bind the Commission, which leads in uniform practice and transparency in procedures, and thus in legal certainty, which is outlined in the introduction. Although they do not have the power of the bylaw, thanks to these guidelines market participants may be familiar in advance with the position of the Commission.
on the implementation of the underlying provisions of the Law and Regulation, and in this respect the Guidelines help in general prevention of violation of competition.

However, the parties have, in several administrative proceedings, disputed the implementation of the Guidelines. Since the Guidelines represent innovation in our legal system, we have to point out that the court, in the past, questioned the legal nature of the Guidelines. The Commission has always held the same position/opinion, which is in short, that the decision on the extent of protection of competition is based on the Law and Regulation, and from the established facts arise the presence or absence of required elements, which can be held as mitigating or aggravating circumstances in accordance with these acts. Elements essential for determining the extent of the measures, are quantified according to the criteria stipulated by the Guidelines, so that the parties, getting to know in advance the Guidelines, can find out how the Commission will determine and quantify the criteria prescribed by the Law and by bylaws.

Other legal situation that we indicate is the following. When adopting a new or current Law, it is not explicitly prescribed how to act in a legal situation where the procedure of determining a violation of competition is effective and completed in accordance with the previous Law, but the process of monetary sanctions is not, because, under the previous Law, two separate proceedings were held - one before the Commission where the violations and the behavioral measure is determined, and subsequently, the other one, in front of the magistrate authority in which the violation is fined.

Starting from:

- the provisions of Article 74 of the new Law which stipulates that "the proceedings initiated up to the effective date of application of this Act, regulations by which they were started are applied";

- the opinion of the magistrate authority or the court that the new Law is favorable for the party and that the previous Law cannot be applied, which is why all procedures that the Commission initiated are discontinued or the requests are rejected; Namely, attitude of the magistrate authorities is based on the provisions of Article 234 Paragraph 1 of the Law on Violations ("RS Official Gazette", No. 116/08), according to which the infringement procedure is terminated when it is determined that the action in question is not regulated as a misdemeanor, while addressing the Commission on the implementation of the new Law as a more lenient law in the respect of the sentence;

- the fact that both, previous and the applicable Law prescribe, in the same manner, actions and acts of abuse of dominant position and restrictive agreements, as well as that the sanction (the previous law punishment under the new measure of competition) determined
in the form of the mandatory payment of monetary amount in the prescribed percentage of the total annual income earned in the year preceding the violation;

- Effective abuse of the dominant position of Joint Stock Company "Mlekara" from Subotica and Joint Stock Company Milk and dairy products "Imlek" from Belgrade in the market of raw milk in the Republic of Serbia, by imposing unfair business conditions to primary agricultural producers and applying dissimilar conditions to equivalent transactions with other participants in the market;

- Effectively determined violation of competition - Restrictive agreement of Veterinary Chamber of Serbia.

In particular, the belief that the legislator, more precisely the National Assembly is not intended to, by bringing a new Law that allows the efficient protection of competition, free perpetrators of violation of competition from fine simply because there has been a change in the Law.

The Commission has applied the new Law, as more favorable to the party, for sanctioning violations that are legally established under the previous Law. The new Law is more favorable to the party because: violation of competition is not defined as an offense, which means that the responsible person in the legal entity is not sanctioned; measure is determined "in the amount up to 10% of the total annual income", whereas the previous Law defines both the lower and upper limit in the amount of 1-10%; the deadline for voluntary compliance according to the new Law cannot be shorter than 3 months nor longer than 1 year, whereas the previous Law stipulates that the deadline is 15 days, and so on.

The parties have, of course, questioned the position of the Commission in administrative proceedings and before the Supreme Court of Cassation, arguing that the new Law does not apply as favorable, but that this situation is a retroactive application of the new Law. This attitude of the parties is understandable, having in mind only their own interests, because if the previous Law is applied, given the stated views of Magistrates Court, in fact all of the parties would be free from fines or any kind of punishment, and therefore the new Law cannot be more favorable to them, regardless of the provisions.

Different councils of the Administrative Court have ruled in a different matter in these situations. Thus, certain decisions of the Commission have been confirmed, and certain have been canceled and returned for a new trial, while there was no uniform practice or clearly stated reason for the annulment. According to the opinion of the Commission, the main reason for this situation is to be found in the silence of the Supreme Court as well as in the annulled cases by the Administrative Court without clear and specific reasons. The Supreme Court of Cassation, in August last year, took the stance that in this case the new Law cannot be applied. The slow pace
of decision-making did not mean at the same time the slow pace in taking stance on this issue, which is set out before the delivery of the decision in which the same is discussed. The ending result of this understanding of the Supreme Court of Cassation is that the perpetrators of violations that are legally established under the previous Law are not financially penalized.

However, in the meantime, the statute of limitations in a significant number of cases occurred, since the new Law prescribed the limitation period of 3 years. This provision is precedent in our legal system, as well as in the Laws of other countries, and legal regulations of the EU, since the statute of limitations of three years involves the processing of violations and judicial control and enforcement of the obligations. The statute of limitations determining the extent of measure of protection of competition resulted in the following cases:


- Effectively determined violation of competition – Restrictive agreement of Metro Cash&Carry d.o.o Belgrade and INVEJ d.o.o Belgrade, who is the legal successor of the Joint Stock Company for production, export and domestic trade, tourism and services, INVEJ, Belgrade;
5.2. Exemption from the prohibition of restrictive agreements

Restrictive agreements, both horizontal as concluded by mutual competitors and vertical concluded by market participants who are not competing with each other, because of its restrictiveness, are generally prohibited, except in the case of an individual exemption from the general prohibition and exemptions for certain categories of agreements.

Given that some agreements that lead to certain restrictions of competition has positive effects that are prevailing over the limitations that they cause, it is foreseen by the Law that there are institutes of individual exemption. Some agreements will not be considered prohibited and may be exempted from the general prohibition required by the Law, if cumulatively, during their lifetime, they meet legal requirements for exemption from the provisions of Article 11 and 12 of the Law or, if they fulfill conditions for group exemption from the regulations governing the group exemptions for certain categories of agreements, or if it is a matter of low value agreements (Article 14 of the Law).

The burden of the proof for an exemption from the general prohibition of agreements is always on the participants of the agreement. Evaluating on whether these agreements are forbidden or not, depends on the assessment of their positive or negative effects on competition in any particular case. Thus, for example, agreements between competitors may restrict competition, but this limit may be necessary, and therefore allowed for the production of better quality or a completely new product which without mutual research and development, mutual production or specialization could not even been produced.

The increased number of requests for exemption from the prohibition gives the ability to the Commission to act preventively in the sense that it ex ante removes the effects of agreements that would, if applied, exclude competition in the relevant market or in a substantial part of it. During the assessment of the effects of participants in the agreement, the Commission shall order the parties to adjust the agreement to the law for protection of competition, by the adoption of certain amendments to the agreement. In this matter, the parties of the agreement eliminate the risk of any liability in the event that the Commission finds the existence of restrictive agreements that could not be excluded. In addition, through the process of review of a restrictive agreement, parties of the agreement get more familiar with the rules of competition which raises awareness about the importance of competition in the business environment.

Also, based on these applications, the Commission has learned more about the structure of certain markets and the correlation of its business undertakings and often learns about the network agreement, which is important for understanding the conditions of competition in the overall market of Serbia.
5.2.1. Cases completed in Administrative Procedure

Consortium Agreement for Insurance of Electric network of Serbia

Individual exemption from the prohibition of restrictive agreements - consortium agreement is approved; signed between "Dunav Osiguranje" a.d.o. and "Delta Generali Osiguranje" a.d.o, both from Belgrade, Serbia to ensure the Electrical Network of Serbia, for insurance of fixed assets for a period of 3 years from the starting date of the corresponding coinsurance contract and for employees insurance, for the period of 3 years from the date of conclusion of the contract.

The Commission finds that the main reasons for making business decisions on joint participation in the procurement procedure or submitting a joint offer in a particular procurement are related to the technical nature of the insured property. The nature of the risk for assets of Serbian Electric Network is formed in way that there is a necessitate for regular activities and in the case of substantial and frequent damages, which are likely possible, there is a necessity for greater insurance that can be provided by the consortium in relation to the insurance coverage that would provide a single insurance company. Also, overall effects of the agreement on consumers, through ensuring the safety performance of the ENS, given the exposure of high voltage network to natural hazards by weather, is important. Although there is no direct impact of this insurance to the final consumers, there is an indirect effect, through quality assurance ENS as a customer, which is reflected in the increased security and reliability of the ENS, and in rapid removal of faults on the network due to faster loss payment, which certainly affects the regular supply to end users, reducing the number of accidents. In an indirect way, if the distributor has the benefits of insurance, it is transferred to the end user / consumer.

At the same time, with the conclusion and implementation of the relevant agreement, competition in the relevant market or in a substantial part is not excluded.

Michelin partnership agreements and quality label

- The decision on the exemption from the prohibition of restrictive agreements on Agreement on partnership business in retail, between SC Michelin Romania S.A, and Agrohim d.o.o. Niš for a period of 3 years from the date of the contract or until 07/04/2014.

- The decision on the exemption from the prohibition of restrictive agreements on Agreement on partnership business in retail, between SC Michelin Romania SA, and Kemoimpex a.d. Belgrade, for a period of 3 years from the date of the contract or until 07/04/2014.
- The decision on the exemption from the prohibition of restrictive agreements on Agreement on partnership business in retail, between SC Michelin Romania SA, and Beoguma d.o.o. Belgrade, for a period of 3 years from the date of the contract or until 07/04/2014.

- The decision on the exemption from the prohibition of restrictive agreements on Agreement on partnership business in retail, between SC Michelin Romania SA, and Obnova Kraljevo, for a period of 3 years from the date of the contract or until 07/04/2014.

- The decision on the exemption from the prohibition of restrictive agreements of the Agreement on quality label, between companies S.C. Michelin Romania SA, and GUMAPROMET d.o.o. Leskovac, until the expiry of the contract or until 12/29/2014.

- The decision on the exemption from the prohibition of restrictive agreements of the Agreement on quality label no. SS026, between SC Michelin Romania SA and Top Stop Auto d.o.o. Novi Sad, until the expiration of the contract or until 06/04/2015.

- The decision on the exemption from the prohibition of restrictive agreements of the Agreement on quality label no. SS025, between company SC Michelin Romania SA and Auto Center Štrbac d.o.o. Veternik, until the expiration of the contract or until 04/06/2015.

Excluded contracts fall into the category of vertical agreements and contracts that establish a system of selective distribution of sales and retreading Michelin tires at the retail level. Selective distribution system is based on a combination of qualitative and quantitative criteria requirements, which relate to the minimum turnover and encouraging expansion of retail activities, defining the required minimum trading volume of tires and the necessary minimum activity in tire retail business. In addition to selective distribution network, there is an open distribution network, the Commission evaluated that comparative selective distribution system cannot lead to a significant reduction in market competition in the area of distribution of Michelin tires. Commission also evaluated that selective distribution agreements do not include provisions for the "exclusive purchase", "non-competition" clause and other restrictions on sales and retreading tires of competitor producers, which sufficiently limit the market power of Michelin, and do not affect the inter brand competition.

It was estimated that these agreements do not produce negative effects to the detriment of consumers because the creation of competitive distribution channels enables the reduction of costs, which reduces wholesale price and maintenance cost, which enables end users a fair share of the benefits resulting from these agreements. Creating additional distribution channels and expanding the wholesale channels, Michelin provides a better and more regular supply of tire
retail, inventory planning, staff training, while ensuring service levels and improved levels of technical assistance at the retail level.

The agreement on portfolio distribution of alcoholic beverages

Individual exemption from the prohibition on Distribution Agreements is approved, concluded between companies "Delta DMD" d.o.o. Belgrade, on one hand, and companies "Diageo Brands BV" (Netherlands), "Old Bushmills" Distillery Co. Ltd. (Northern Ireland), "R & Baily & Co." (Republic of Ireland), "Diageo Scotland Limited" (United Kingdom), "Diageo North America Inc." (USA) and "Ursus Vodka Holding NV" (Netherlands), on the other hand, until the end of relevance of the agreement and no later than June 30 2015. The agreement of exemption from the prohibition applies to the distribution of alcoholic beverages, from product portfolio of above stated manufacturers-suppliers.

The Commission has estimated that the present Agreement does not impose restrictions on market participants that are not necessary in achieving the objective of the agreement, that is the very conclusion and implementation of the relevant agreement does not exclude competition in the relevant market or in a substantial part. Stated contract does not contain hardcore restrictions of competition. Limitations contained in the contract, such as the exclusive purchasing and non-competition obligation, are characteristic for exclusive distribution agreements, contracted to maintain and improve the distribution.

Exclusive distribution of the contract products enables the distribution of confirmed original products, which are of reliable quality with lower prices in further distribution of the same, thanks to the shortest path of distribution when purchasing these products. Exclusive distribution will allow the sole responsibility of distributors to consumers and to the relevant public authority, in terms of quality of storage and delivery as well as the obligation to withdraw products from the markets which do not meet current regulations.

Kozmodet-Association of manufacturers and importers of detergents and cosmetics

The request for individual exemption from the prohibition – Kozmodet’s decision to develop and implement PREP-M-WB project in the Republic of Serbia in order to introduce new products on the Serbian market-compact detergents, since the decision does not constitute a restrictive agreement in terms of Law, is rejected.

Exclusive distribution of online music streaming services agreement

Individual exemption from the prohibition on Exclusive distribution, signed between the companies, "Telenor" d.o.o. and "Blogmusic Ltd." from France (hereinafter referred to as
"Blogmusic") for a period of two (2) years from the date of commissioning of the service on the market, and no later than 31.12.2014., is approved.

Stated Agreement foresees the exclusive distribution of online music streaming service (the term online music streaming means downloading the content directly from the Internet in real time). This service enables prepaid and postpaid costumers of Telenor d.o.o to listen to the music tracks from a database of more than 15 million music tracks through their mobile phones, tablet computers, iPods and similar devices over the network. The aim of the Agreement is to enable present and future users of Telenor better content and quality of existing services, in a way that will, with the execution of this Agreement, enables them to use certain options in stated services free of charge. Also, by encouraging the provision of these services, Telenor Serbia will promote local authors and publishing houses.

Exclusivity provisions relating exclusively to the product (service) as defined in Annex 1 of the Agreement, and not relating to the other services of the parties are, or may be provided as part of their business. According to available data, there are no legal or administrative barriers to market participants, so there are no restrictions for "Blogmusic" to enter the market of the Republic of Serbia. In many countries, the competition between music services that are distributed by the telecommunications operators is highly developed and/or at the same time among the services that have no partners for distribution.

By implementing the stated Agreement in the market of the Republic of Serbia a new service is introduced, so there will be an increase and expand in a choice of products/services to consumers. The Commission has estimated that the present Agreement does not impose restrictions on market participants that are not necessary to achieve the objective of the agreement, that is the very conclusion and implementation of the relevant agreement does not exclude competition in the relevant market or in a substantial part.

**General distribution of certain products and services agreement TELEKOM SERBIA ad**

Request for individual exemption from the prohibition of restrictive agreements - General distribution of certain products and services agreement TELEKOM SERBIA a.d, contracted between the Company for telecommunications "Telekom Serbia" a.d. from Belgrade (hereinafter: Telekom) and "Centrosinergija" d.o.o. from Belgrade (hereinafter: Centrosinergija), were filed to the Commission.

Based on all the information and statements in applications, it is concluded that Telekom performed the distribution of the services and products in two ways, more precisely through two channels to the end user (consumer). One way - one channel would involve engagement of the distribution network (existing and future) of the Centrosinergije. It includes the current and future distribution network of undertakings that are associated with Centrosinergija, as a group of
companies (associated participants). Another way - second channel, would proceed through Centrosinergija, through sub-distributors and retailers, who until now had "direct" agreements with Telekom. Contractual relationship that Centrosinergija would establish with future sub-distributors, or retailer, is "independent contractual relationship" between the parties, but at the same time it does not constitute any obligations of Telekom to sub-distributors or retailers with respect to the obligations towards them over Centrosinergija. On the other hand Centrosinergija would be responsible to Telekom for the overall functioning "of its distribution network".

The present contract is the result of a new business strategy of Telekom, which is a Decision from December 2011, defined by the Board of Directors. General distribution includes only one segment of the prepaid customers, and that is through electronic terminals at kiosks. This Agreement does not include other channels of distribution and sale of prepaid and InoCall credits. Telekom noted that the specific desired objectives that are to be achieved under this Agreement are: system stabilization in terms of collectability; better control of sales and marking sales; rationalization of labor (general distribution will enable Telekom Serbia, more precisely it will enable its staff for Indirect sales services and Invoicing services, to focus on higher priority projects, which are primarily postpaid convergent services and multimedia). At the same time, the establishment of more intensive relations with distributors enables Telekom the introduction of advanced services, promotions and discount programs and similar. The development of the platform will provide better access to end-users, greater coverage in the sale of electronic and other supplements, and greater opportunities for the placement of existing products as well as further innovative products.

The Commission has also asked for clarifications and answers to issues related to the way on how sub-distributers will be able to find, monitor and control the percentage of their market share, by which Telekom was able to learn and follow the percentage of sub-distributers market share, and all related to the declared business policy of Telekom in respect of open possibilities for the conclusion of new contracts when a general distribution of sub-distributors reaches the threshold of 5% of the market share in the distribution of the services. In response to the above, the applicants pointed out that Telekom always knows the actual turnovers through distributors, sub-distributers and actual selling point. Telekom has the ability to track sales and market share of each sub-distributers and retail store. Also, it was pointed out that the market is transparent to the possibility of sub-distributers to find out its own market share, and the communication between sub-distributers and Telekom is not limited in any way, and sub-distributers can always contact Telekom and / or Centrosinergiji as general distributor to find out its market share, and possibly apply for the status of the general distributor.

Speaking out in detail on all notes, issues and risks to competition that were pointed out by the Commission, the applicants stated *inter alia* that the agreement does not restrict a possibility to obtain the status of general retailer in the future for new participants. Telekom Serbia has the right to appoint new general distributors in accordance with its business policy, without the
consent of Centrosinergija, which has no legal or contractual mechanisms able to influence that. The decision of administrative body of Telekom Serbia is that, that the status of the general distributor may acquire sub-distributors that have a market share of at least 5%. At the same time the, Telekom Serbia, as a principal, further demanded a similar standards in the form of infrastructure investments and demonstrated commitment to a potential competitor of Centrosinergija. The corresponding provision of the Agreement, explicitly prohibits giving exclusivity to any general distributor, and ensures equal treatment of conditions that would have Centrosinergija with future potential competitors in this market.

Analyzing and assessing all allegations, it was concluded that the stated alleges, claims and positions of the applicants can be accepted. Also, it was agreed that the applicants have sufficiently explained their stance and perceptions regarding the fulfillment of the conditions for individual exemption from the prohibition, therefore presented arguments made probable fulfillment of all necessary conditions.

In terms of the proposal of applicant, that individual exemption from the prohibition is approved for a period of 7 years, the Commission could not accept the same, primarily because the stated Agreement at this point represents an agreement with exclusivity effect, and although, no doubt, there is a possibility that in addition to a general distributer, this applicant, other general distributors who fulfill the conditions laid down by the new business strategy of Telekom may appear in the relevant market, that possibility represent future and uncertain circumstance, that does not necessarily depend only on the will of the applicant or other participants in the market, but is largely dependent on the overall trends in the relevant market, and the response from the business reaction from the competitors of Telekom. In accordance with the findings and assessments, the Commission has granted an individual exemption from the prohibition of the contract for a period of four (4) years from the date of conclusion of the contract, December 20 2015.

Consortium Agreement insuring the "JAT" fleet

Individual exemption from the prohibition of the Consortium Agreement, signed between the companies Wiener Städtische a.d.o, Belgrade, Delta Generali Osiguranje a.d.o, Belgrade and Dunav Osiguranje a.d.o, Belgrade, by which stated insurance companies concluded as an act of joint action and submission of mutual offer in the procurement of insurance services for "JAT" fleet from Belgrade, for a period of eighteen (18) months from the date of conclusion of the contract, until October 19 2013, is approved.

The objective of this Agreement is redistribution of risk between members of the Consortium and ability to deliver mutual offer for procurement for the business of insuring and reinsuring "JAT" fleet. The contract does not involve co-operation and mutual efforts of all members of the
consortium for the purpose of insurance or any other business, except redistribution of risk in order to submit the same in an easier way by the side of each member of the Contract

Policyholder is directly responsible for the compensation of all claims filed against the "JAT" as claims submitted against "JAT". As an example, it is stated that, in the case of the crash of an aircraft from "JAT" fleet, insurance company that provides insurance services is responsible for all the claims, among which include: the requirements in terms of the value of the destroyed aircraft; asset value and the goods on board; claims for damages of close relatives of persons killed in aircraft; enormous damage that can occur on the ground where the crash occurred and so on. In such cases, the required value on the basis of claims exceeding million dollars. Given the importance of a high level of protection from liability, the members of the Consortium have, as quoted in the application, accessed in coinsurance in order to distribute the risk, more precisely to distribute the consequences for their business which at least one insured event could cause. Moreover, the members of the consortium did not accessed in coinsurance in order to establish "market restriction".

The Commission took into consideration the allegations of the parties, which stipulated "... Due to the fact of such unprofitability and risk which is related with this business, there is no insurance company in Serbia that could provide insurance of JAT’s fleet alone, and that it could seriously endanger the operation of such an insurance company."

Also, the Commission took into account the fact that in the 2012, the purchaser already tried to implement the public procurement of this type of insurance service, but the whole process was suspended because the purchaser did not receive offer from any insurance company.

Assessing the fulfillment of the criteria and conditions laid down in Article 11 of the Law, the Commission has concluded that in the absence of the Consortium agreement, a real risk that the purchaser would be left without the necessary licenses would occur, which would eventually lead to landing of whole aircraft fleet. In such a situation, the question of helping to promote production and trade, and encouraging technical or economic progress, would obtain an entirely different dimension. The Commission considers that, in this case, the question of fulfillment of these two conditions is of secondary importance in relation to the extent of the damage, both to market participant who is contracting the insurance services, as well as to the users of its air transportation services. The absence of JAT from the market could actually lead to an increase in the price of services of other airlines that operate in the same market. This would certainly represent a specific harm to consumers.

Other licensed insurance companies also have the ability to possibly join in order to submit competitive mutual offer. Given the market share and financial potential of the other participants in the relevant market, the possibility of such an assessment is real
5.2.2. Administrative procedures in process

Procedure for the application for exemption from the prohibition of restrictive agreements of the Agreement on long-term partnership between companies SC Michelin Romania SA, and GP Auto Shop d.o.o. Lazarevac, is in process. ³

5.3. Initiatives to institute proceedings to determine violations of competition

In previous work, detecting violations of competition proved to be one of the most complex tasks of the Commission. According to the Law, the infringement proceedings are initiated ex officio when, based on the proposals, information and other available data, it is reasonably assumed that there is the existence of a violation of competition. Initiative to institute the infringement procedure is one of the most important sources of knowledge, which is why the Commission thoroughly examines each submitted initiative and carefully analyzes collected evidence. It could be argued that the Commission conducts preliminary proceedings to collect the basic data that will shed a light on the situation on the market for which the applicant believes to be a violation, in order to detect a fraud or act of market participants against whom there is a suspicion that they are perpetrators, as well as evidence that make the existing doubts well founded. Since the Commission before deciding, has no authority to initiate proceedings, possible actions in order to collect additional data and information are submitted requests for information and documents from the market participants to whom the initiative is related, its competitors, other companies who are participants in the same market, as well as government bodies, organizations and regulatory bodies with jurisdiction in the present economic sector, etc.

Consideration of initiative requires a lot of time, but it is necessary, because in each case it is assessed whether they met the real and procedural prerequisites for initiating the proceeding.

The applicants are mostly market participants, who are not always competing companies in relation to ones which the application initiatives, particularly in the area of passenger transport, public procurement, and the energy sector and so on.

After an investigation of the case to which the initiative is related to, the applicant has, in each case, informed about the outcome of the initiative, on the circumstances and reasons for the decision of the Commission. The greatest number of initiatives is related to the legal situation that are not a matter of competition and where the Commission is not competent, especially in the case of public procurement. In these cases, the notice of the Commission always contains information on who is the competent authority. This circumstance is a signal that the Commission

³ In 2013, the decision was made.
has to work more intensified in order to raise public awareness of the rules of competition, so the market participants would be able to recognize actions and acts that are or may be a violation of competition and thereof inform the Commission about their findings.

All initiatives were filed to initiate proceedings to determine the abuse of dominant position, and below we present the most important ones, filed against the following parties:

"Velmortrans Plus" - in restructuring from Ćuprija

The Initiator "Nis-Ekpres" a.d. Niš, states: Velmortrans charges significantly higher prices for station platform services (receipt and deliver) for the buses compared to prices charged at other stations; physically prevents the entry of Nis-Ekpres bus in the BS Ćuprija; Velmortrans delivered to Nis Express two rice lists with prices and conditions different for the same type of service; charges services in cash by providing receipts to drivers of Nis-Ekpres; conditions Nis-ekspres to sign a contract for the provision of station services and to accept the price list on which the prices are significantly higher and in which Velmortrans conditions Niš-ekpres to entrust it the sale of tickets.

Procedure examining the abuse of dominant position is initiated in January 2013.

"Gaga" d.o.o. from Ćajetina

Association of Road Transport "Panontransport", Novi Sad, states that the company "Gaga", which manages a bus station in Užice, after the entry into force of the decision of the Constitutional Court, which determined that the provisions of the General Business Condition for bus stops related to the extent of rates of station services, have ceased to exist, price of station service paid by passengers increased by 400%, parking prices for buses increased by 200% for in-line, and 800% of occasional transport, while the price of admission and bus equipment increased by 47%.

Processing is in progress.

"TE KO KOSTOLAC" from Kostolac

The initiative was filed by the company "Bor" d.o.o from Temerin, because of a sale of lump coal by public advertisement, for which it was stated that it represents the source of corruption, rigging and creating a vicious circle of customers, which represents an abuse of a dominant position.

Collection of additional information and data is in process.
"RB Kolubara" from Lazarevac

"Nova Trgovina" d.o.o. from Valjevo, has filed an initiative for implementing the procedure for sale of dry and raw coal by public notice using the criteria and decisions taken in connection with a public announcement, for which it is stated that they are illegal, opposite to the rule of the Law and good business practice with the legal consequences of nullity, as well as that the stated situation led to the violation of the competition in terms of the Law, and that the adoption and application of the criteria for evaluation of applications is a manifestation of the act of the defendant which has the purpose or effect in significant restriction, prevention or distortion of competition.

Collection of additional information and data is in process.

Naftna industrija Srbije a.d

Association "Gas stations of Serbia" has filed an initiative stating that NIS has unfairly changed the requirements of long-term contracts on the sale of crude oil medium C, which prevents other market participants to participate in the public procurement of crude oil medium C, by refusing to issue an appropriate certificate of good’s origin.

Collection of additional information and data is in process in order to determine whether there are elements that may indicate a violation of the competition.

"Telekom Serbia" a.d Belgrade

Company "DTM Investments" d.o.o. from Belgrade states that it has contacted Telekom with the proposal for the conclusion of the contract on general distribution on which Telekom did not respond positively. Quotes in initiative are based upon the belief of the applicant that an individual exemption from the prohibition on general distribution agreement signed with Centrosinergija, given the condition that Telekom, by default, is obliged to conclude a contract on general distribution with every distributor who meets a requirement of 5% of the market share in the provision of prepaid services for Telekom's mobile services. The applicant states that it contacted Telekom but the request made by "DTM Investments d.o.o. from Belgrade was refused, without any practically discussion". Attached to the initiative, applicant has submitted copies of correspondence with Telekom Serbia that were led on this occasion led.

Work on this initiative is in its final stage.
This case is an excellent example that the effects and protection of competition can be achieved by presenting the possibility of initiating proceedings to determine infringement of the competition, and, therefore, we present it in more detail.

The initiative was submitted by "FUNERO" d.o.o, Funeral services and "Urna" d.o.o, Company for the sale of funeral equipment, transportation and burial ceremonies, both from Subotica.

Following the decision of the Assembly of Subotica from 2010, to expand the scope of services of Public Utility Company "Pogrebno" from Subotica (hereinafter PUC Pogrebno ), the Board of this Public Utility Company brought the price list that set prices on some services (fees for the use of special carts to transport the deceased to the cemetery for and the transport of flowers, and fees to enter special funeral car to the cemetery) in a higher amount than the prices that were previously applied, while also banning the use wheelchairs of other funeral companies. Accordingly, PUC Pogrebno does not charge mentioned services to its clients, while only charging it to funeral homes. Due to these reasons the Initiative for investigation of the violation of competition according to Article 16 of the Law against PUC Pogrebno, was field.

Based on the analysis of the available documentation, the Commission found that the conditions for initiation of proceedings to determine the existence of violation of competition under Article 16 Law are fulfilled. The existence of grounded assumptions of the violation of the competition, Commission has determined due to lack of justification for the pricing policy for determining remuneration for the use of special carts to transport the deceased and for the transport of flowers, as well as to enter a special funeral car to the cemetery. The increase of existing reimbursement, as well as the determination of a newly introduced fee (fee to enter a special funeral car to the cemetery) is not implemented on the basis of calculations of prices based on the cost principal related to provision of services. By acting in this manner, PUC Pogrebno can provide an advantage for themselves and lead to a negative impact on the conditions of competition, because by imposing the obligation to pay compensation and banning the use of own equipment it will increase the price of services of its competitors, while PUC Pogrebno will not charge mentioned compensations to its customers. In fact, it is the matter of compensation for the services used by competitors of PUC Pogrebno in performance of their activities that PUC Pogrebno is starting to perform again, thus, PUC Pogrebno with described treatment can offer cheaper services, which is not the result of "contest" for the user, but rather the position of the PUC Pogrebno which allows it to make, adopt and implement pricing that creates an obligation to private funeral companies.

However, by estimating the duration of an act, more precisely the start the application of disputed fee and date of the last price list in use, the Commission has invited the PUC Pogrebno to alter decisions on disputed compensations, including the level of compensations that must be determined solely on the cost principle and taking into account only the costs arising from the
provision of the services. Also, it is necessary to leave the ability to the private funeral companies to use their own equipment / cart or in the case of prohibition of the use of equipment/carts, the fee shall be applied under the same conditions and in the same way to all users of the mentioned services of PUC Pogrebno.

PUC Pogrebno has submitted to the Commission a brief and appendix about the Decision of the City Council approving the price of the funeral service, which contains the price list of funeral services of burial and cemetery maintenance. From the above mentioned price list, it is determined that the compensations for the use of special carts to transport the deceased and flowers are specified in such a way as required by the Commission, and that the new price list does not include a compensation for entry of a special funeral car to the cemetery.

Initiative applicants are informed that the reasons for initiating proceedings ex officio are eliminated.

*Company for the distribution of electricity, "Elektrodistribucija Belgrade" d.o.o from Belgrade*

The Initiator, the Business Association of Cable Operators of Serbia, states that "Elektrodistribucija Belgrade" d.o.o. from Belgrade (hereinafter: EDB) at the end of January 2012, has increased rental price of low voltage (hereafter LW) columns from 6 to 12 euros, and with unilateral doubling rents of columns with the threat of contract termination and stripping operators cable because of their refusal to sign the offered contract annex, the EDB directly imposes unfair purchase price which represents the abuse of a dominant position in market.

After analyzing of the available documentation, the Commission informed applicants that it cannot be reasonably assumed that there is a violation of the competition. The companies engaged in the distribution of electricity, and which rent NN poles, determine the rental amount by applying different methodologies - in the form of a fixed amount of compensation; compensation determined based on the type and/or value of the pole; the initial compensation is determined, and the final amount of compensation is determined by an auction and so on. Compensation amount specified in these ways are different, and they range from about 5 to over 15 euros per pole per year, therefore it cannot be reasonably assumed that the price of 12 euros charged by the EDB is an unfair price.

*"Autoprevoz Čačak" a.d Čačak*

Company "Pegaz" d.o.o. from Ivanjica filed an initiative to determine the legality of the registration of the line and departure times which cannot be maintained, disrespect of timetables, and ticket sales for the lines that are not registered.
The applicant was informed that the Commission is not competent, or more precisely issues that are presented are the responsibility of ministry for implementation of the Law of Road Traffic.

"Elektrovojvodina " d.o.o, Novi Sad, "Elektrodistribucija Ruma" branch from Ruma

The initiator, company "Gvozdenovic energetika" d.o.o. from Inđija, states that ED Ruma in its operations: did not separate account/bill for the different activities; contracts the construction of electric power facilities (EPF) to third parties without public tender; for the construction of EPF, it does not have a building permit. The abuse of official position of the Director of the Branch is also stated, which is reflected in its lack of connection to the electricity network because of the decision of the Director ED Ruma not to make a decision.

Notification about a lack of jurisdiction of the Commission is delivered to the applicant of the initiative, in which applicant is also thought about the authorities and the proceedings that may lead to the solution of the presented problems.

PC PTT "Serbia", Belgrade

The initiator, Business Association of Bidders in Public Procurement Procedures of Serbia, from Kragujevac, states that PC PTT "Serbia" restricts competition among the bidders, by conditioning the collection of tender documents for procurement – procurement of the works on reconstruction of post office in Vrnjačka Banja, with improper request for the signing of the Statement of the confidentiality and appropriate handling of confidential information and documents. The applicant believes that by imposition of the obligation of signing these Statements, the number of submitted offers will decrease to a minimum and thus ensuring a job at a higher price, than the price that could be achieved without restricting competition.

Applicant was advised that the established facts show that the tender documents are made available to all interested parties under the same conditions, and that other matters are not within the jurisdiction of the Commission.

AD "Fabrika šećera TE-TO" Senta

Provincial Ombudsman of the Autonomous Province of Vojvodina states that AD "Fabrika šećera TE-TO" Senta in the performance of utilities that are entrusted to it, made mistakes in the following fields: calculation of fees, determining the debts of users of the utilities, failing to perform utilities at a time when it was mandatory for them and failing to deliver utilities to those users who are not their debtors.

Notice on lack of jurisdiction of the Commission was delivered to the applicant with a notice that presented issues are in the competence of the ministries responsible for the implementation of the Consumer Protection Law and the Law on Public Utilities.
"Ribare -Vet "d.o.o. from Ribare, submitted the Initiative in which it stated that the service of artificial insemination of heifers and cows, in the municipality of Jagodina, is provided without any charges for cattle keepers and local government refunds money to veterinary station. On the territory of Jagodina, 3 veterinary station are operating (hereinafter VS) more precisely, VS "Jagodina", VS "Protektanimal" and VS "Ribare". Since 2007, in the municipality of Jagodina, veterinary station "Jagodina" with a subcontractor VS "Protektanimal" gets the job, although in any given year VS "Ribare" had a lower cost of the service. The initiator believes that VS that does not provide this service could not survive, thus provides this service on its own expense. Assigning such a deal "opens" the path to take over the users in the market for the provision of other veterinary services.

In this case, the municipality Jagodina tenders and selects the bidder, and given that public procurement procedures as well as procedures and mechanisms for the protection of bidders' rights are regulated and prescribed by the Law on Public Procurement, the Commission instructed the applicant to seek protection of its their rights with the responsible committee in accordance with the provisions of this Law.

**Municipality of Brus**

Company "Energy 4 You" from Belgrade filed the initiative to institute proceedings against the Municipality of Brus, because of conditioning of issuing a decision on construction by "signing of the Contract on joint investment in the design and construction of small hydro power plants with the company M.HE. Power Brus d.o.o.". It is further alleged that the Assembly of the municipality of Brus, made violations by implementing the Resolution on amendments to the Decision on the adoption of the proposed register of mini hydro power plants in the municipality of Brus, held on June 9 2011 ("Official Gazette of the Municipality Brus", 4/11).

Based on the established, it was concluded that in this case there was no basis to initiate proceedings because, in terms of personal jurisdiction of the Competition Law, the Municipality of Brus cannot be considered as a participant in the market since the controversial decisions is made within the jurisdiction and powers of local government. From this, follows that the Decision, which conditions the issuance of permit for the construction of mini hydro power plant in the municipality of Brus, cannot be held as a view of the abuse of dominant position within the meaning of the Competition Law.

The Commission has informed the applicant about the outcome of the consideration of the initiative and referred the applicant to the Ministry of Mining and Energy, which is responsible for implementing and monitoring the implementation of the Energy Law and related regulations.
The Commission has suggested to the bodies of the municipalities of Brus that the project for construction mini hydro power plant, which involve local government, and which is regulated with their acts, should be transparent, in order to prevent and avoid any negative effects on competition in the market, and thus all legal consequences arising from it, especially since the company founded by the municipality is deemed as a market participant, whose operations are under the Law.

**Directorate for the construction and development of the municipality of Ćuprija**

Company "Plan Urban" from Niska Banja filed an initiative in connection with the implementation of the public procurement for development of Plan of general regulation for populated areas on the territory of municipality of Ćuprija. According to the notices of the initiator, the Directorate for Construction and Development of the municipality of Ćuprija, as a contractor, adapted the criteria and requirements for participation in the procurement process to the company Infoplan d.o.o. from Arandelovac, to the detriment of other participants.

Acts of the contractor, which may have restricted competition in the procurement process, are sanctioned by the provisions of the Public Procurement Law, and bidders may exercise and protect their rights in the procurement process, thus the Commission has no jurisdiction in this situation.

"Strike Investments" d.o.o. from Belgrade

The company "Millennium Film & Video" d.o.o. from Belgrade, filed the initiative against the company Strike Investments d.o.o. from Belgrade, stating that this company has unilaterally discontinued business cooperation without good cause and has refused to show films from Millennium Film distribution throughout 2010 and 2011, explicitly conditioning film showing by the direct agreement of parent companies.

According to data in the initiative, it is indisputable that Strike Investments, more precisely movie theater Kolosej in shopping center Ušće, is a film showing company with a significant share in the relevant market of the city of Belgrade, and that business contacts were continued but cooperation is not restored because, apparently, unacceptable conditions for the applicant. Therefore, any cooperation with the applicant is not generally rejected.

From previously stated it is concluded that described acts do not represent a violation of the competition.

The above stated must be in relation with the main objective of competition, which is implementing the economic development and welfare of society, especially consumer benefits. Accordingly the protection of competition should not be aimed at the protection of the interests of individual market participants. In terms of the free and the market economy, market participants
bring their business decisions, including those concerning the selection of business partners, on their own, guided by the basic economic principles. Accordingly, market participants’ discretion right is to choose a distributor who will, with the quality of its programming content, enable the higher viewership by the end user. While evaluating the behavior in terms of choosing a distributor, the Commission has determined that above stated situation is not by itself an application of dissimilar conditions to equivalent transactions with respect to various market participants - distributors, or action whose performance leads to violation of competition in the market of film showing in movie theaters.

**Public Utility Company "Tržnica" from Novi Sad**

The initiator, Independent workshop "Okvir" from Futog, considers that the PUC Tržnica, which manages all the markets in the city of Novi Sad, committed an abuse of dominant position, in terms of the amount and manner of determining any extension of the lease, as well as billing and collection of common expenses and payment of VAT, conditional costs and expenses arising from the use of premises (electricity, telephone, etc.). As a result of these actions, many tenants had to leave the premises or to raise loans in order to be able to pay the stated compensations.

After analysis of the available documentation, the applicant was informed that it could not be reasonably assumed that there is the existence of a dominant position and distortion of competition, which is why there are no grounds to initiate proceedings ex officio. In fact, when considering the possible of applying the Law, in respect of the compensation for the extension of the lease, it was determined that the assumption of the existence of a dominant position PUC "Tržnica" is not fullfiled, and which is directly related to the definition of the relevant market. The subject of the initiative is to rent office space in the market, however, the application of the Law and the Regulation on the criteria for determining the relevant market, office space which is located on the markets could not be a separate relevant geographic market, especially bearing in mind the purpose of the space, or activities that are performed in them, for which it is not necessary to be placed solely on the market. For this reason, an adequate replacement of such premises would be any other office space in the market souranding, that is not operated by PUC Tržnica, for example. another public company in Novi Sad - PUC "Poslovni prostor", as well as office spaces in private ownership. Eventually it would be possible to determine that all the available office space in the city of Novi Sad is a replacement of office space located in the markets. Therefore, despite the fact that the PUC Tržnica leases office space in all markets operated by it, in the case of defining the relevant geographic market wider than specified in the initiative, there is no reasonable assumption for participation of 40% share of the PUC Tržnica on the relevant market, which is a prerequisite for determining an abuse.

In addition, the available data does not follow a reasonable doubt that the violations of competition are committed. When it comes to the compensations for the extension of the lease, according to the PUC Tržnica, they represent 50% of the starting price at the auction premises.
Therefore, determination of the amount of the compensation for renewal of lease depends primarily on information about common amounts which are achieved at auction for office spaces of PUC Tržnica.

_Naftna industrija Srbije a.d. Novi Sad_

In the initiative of "Gaspetrol" from Pančevo, it was stated that Naftna industrija Srbije a.d. Novi Sad refused to issue a statement of the manufacturer and the specification of the product to other entities, registered for trade in petroleum products (including this applicant) and which buy petroleum products from NIS, which violates the "principle of equality and non-discrimination" in public procurements, and which led to the situation that Naftna industrija Srbije a.d. Novi Sad provided itself with an "unequal position in the market". According to the initiator, the documentation that NIS refuses to issue is necessary to customers in the process of issuing Certificates of domestic origin of goods by the side of Serbian Chamber of Commerce, which they further use in public procurement procedures for exercising the right to preferential treatment of goods of domestic origin, where they act as supplier, and also in some public procurement as competitors of Naftna industrija Srbije a.d Novi Sad. Legal remedies against the decision of the contracting authority cannot be applied because, according to the Law on Public Procurement, requirements for the protection of the rights of suppliers can be brought against any action of the purchaser that violates the Law, and the purchaser in such cases did not commit any violation of the Law on Public Procurement.

The Commission concluded that the NIS refusal action to issue the required statement cannot be considered an act of violation of competition, given that the statement of the manufacturer does not provide Instructions as well as a condition for obtaining Certificates. The provisions of the Instructions refer to the obligation of the bidder, as the applicant for the issuance of Certificates of domestic origin, to make a statement under full financial and legal responsibility that the goods offered in the public procurement is of domestic origin, which is a condition for considering the request. Chamber of Commerce, according to the Instructions, if necessary, can ask for a supplementary document, and it can also check the accuracy of the information in these documents (section 2.3 Instructions).

The Commission evaluated that a violation of competition that is defined in the initiative cannot be reasonably assumed, and, accordingly, the statutory requirements for initiation of proceedings ex officio are not met, because in addition to the previously established facts, possible disrespect of legal obligations regarding the implementation of the Instructions, by the Chamber of Commerce of Serbia, as a holder of public authority, cannot be considered an act of violation of competition, because it is the matter of obligations that come from the authority regulated by the Law on Public Procurement, Regulations and Instructions, and Ministry of Finance and the Commission for Protection of the Rights in Public procurement is responsible for implementation and supervision of these laws. The Commission has no jurisdiction or authority to supervise the
work of public authority holders in terms of respecting of the obligations established by special legislation. Other competent bodies are responsible for implementation and supervision of these laws.

Assembly of the city of Novi Sad

According to the applicant, the Assembly of the City of Novi Sad, by imposing a Decision which approves the city budget, predicted a budget item for funding a publication of public media - guide "Center", which is published by the Cultural Center of Novi Sad. Cultural Center of Novi Sad is an institution established by the City of Novi Sad. "Center" is distributed as free and as a competitive guide - media outlet. These media are focused on informing citizens of Novi Sad about the cultural events in Novi Sad and are distributed free of charge, more clearly financing is accomplished through advertising revenues, which are published in the journal.

According to the initiator, the Assembly of Novi Sad committed an abuse of monopoly, discriminating other participants in the public media. The applicant was informed that the Commission is not responsible for possible non-compliance with the provisions of the Law on Public Information, its implementation is entirely in the responsibility of the Ministry of Culture. Also, the Decision on approving the funding to Cultural Center Novi Sad cannot be held as a view of abuse of dominant position, because it is the decisions considering public finance, thoroughly regulated by the Law on the Budget System, which governs the planning, preparation, adoption and execution of the budget of local government and for whose monitoring and implementation is the responsibility of the Ministry of Finance. Also, in terms of personal jurisdiction of the Competition Law, the Assembly of Novi Sad cannot be considered as a market participant, and for that reason a procedure before the Commission cannot be started.
6. INVESTIGATION OF CONCENTRATION


<table>
<thead>
<tr>
<th>Type of the procedure</th>
<th>Completed procedures</th>
<th>Procedures in progress on 31.12.2012.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concentrations approved in summary proceedings</td>
<td>94</td>
<td>12</td>
</tr>
<tr>
<td>Conditionally approved concentrations investigated in ex officio procedures</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Prohibited concentrations investigated in ex officio procedures</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>Rejected application for concentration</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td>Suspended proceedings on the application of concentration</td>
<td>5</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>105</strong></td>
<td><strong>13</strong></td>
</tr>
</tbody>
</table>

6.1 Concentrations approved in summary proceedings

In the reporting period, one of the characteristics from previous years is detained. That characteristic is that in most procedures 71 (67.6%), applicants were foreign entities. Also, there is a significant number of extraterritorial concentration - 65 (62%) compared to the number of homeland concentrations- 40 (38%). The number of reported concentrations that occur in the process of privatization has been significantly reduced, only 1 (0.95%) procedure. Also, in relation to the total number of issued decisions on submitted reports relating to concentration, there was almost negligible number of concentrations that occur on the basis of Article 61 Paragraph 3 of the Law, that are carried out by an acquisition offer within the regulations that govern joint venture takeover. Only 2 decisions are issued on the basis of reports concerning the acquisition of joint venture, which represents about 1.9% of the total number of decisions in the 2012, which approved implementation of reported concentrations (96). In the case of this concentration, reporting duty exists even in the cases when when the thresholds of annual turnover of concentration participants set out in this section of the Law, are not meet, regardless
of income or earned by the concentration participants. Also, 2 (1.9%) approving decisions have been issued on the basis of reports relating to the purchase of companies in bankruptcy.

In relation to the total number of concentration that are approved by the decision of the Commission in 2012 (96), by far the largest number (81 or even 84.3% of the total number of procedures have been completed by issuing a decision on the approval of the concentration in summary proceedings -94), refers to the decisions issued based on the applications based on the contract - sales relation of all interested parties, by which shares or stocks are acquired by the
side of one market participant in another market participant, in quantity and in a way that means gaining control of the acquiring company whose shares or action are taken or acquired, pursuant to Article 17 Paragraph 1 item 2) of the Law. On this legal basis, in summary proceedings, the following concentrations are approved by the decision.

1. Concentration of market participants arising from acquisition of control by DTEK Holdings BV from Netherlands, over the company with additional liability MINE Bilozerske from Ukraine, which occurs on the basis of acquiring 74.752% of shares in the target company from its current owner.

2. Concentration of market participants arising from acquisition of control by COOPER TIRE & RUBBER COMPANY SERBIA d.o.o. from Kruševac, over the Factory of passenger car tires with all the property, which functions within Trajal a.d. corporation from Kruševac, which occurs by acquisition of the target company and its related assets based on and subject to the conditions set forth in Contract of Purchase of Assets.

3. Concentration of market participants arising from acquisition by the company Petrol d.d. from the Republic of Slovenia, over the company for installation of water, sewage, heating and air conditioning systems BEOGAS INVEST d.o.o. from Belgrade, which occurs by acquiring 85% of shares in the target company from its previous owner as well as the acquisition of indirect control in the same percentage of the company for the distribution of gaseous fuels BEOGAS d.o.o. from Belgrade and the company for installation of water, sewer, heating and air conditioning systems DOMINGAS d.o.o. from Belgrade, which are wholly owned by the target company.

4. Concentration of market participants arising from acquisition of control by the company Open Joint Stock Company "Power Machines-ZTL, LMZ, Elektrosila, Energomasheksport" from the Russian Federation over the company PJSC EnergoMashinostroitelnj Alyans from the Russian Federation, which occurs by purchasing 100% of the shares of the target company from its current owner.

5. Concentration of market participants arising from the acquisition of control by the company OTP Factoring d.o.o. from Novi Sad over the company for production, trade and services Pevec d.o.o. in bankruptcy from Belgrade, which occurs by purchasing companies in bankruptcy based on the public tender from the published ads.

6. Concentration of market participants arising from the acquisition of control by the company PORTINVEST LIMITED from the Republic of Cyprus over the company PORTINVEST LOGISTIC from Ukraine, which occurs by acquiring 100% of the shares in the target company, of which PORTINVEST LIMITED will immediately have 90%, while 10% of shares will belong to its subsidiary Portinvest LLC from Ukraine.
7. Concentration of market participants arising from indirect acquisition of control by the company Robert Bosch GmbH from Germany, over the company Voltwerk electronics GmbH from Germany, which occurs by acquiring of all shares of the target company through a fully subsidiary company Bosch Power Tec GmbH from Germany.

8. Concentration of market participants arising from acquisition of control by company AKKA Technologies SA from France, over the company MBtech Group GmbH & Co. KgaA. from Germany, and at the same time over the company MBtech Verwaltungs-GmbH from Germany, which occurs by acquiring 65% of the shares of the target company, whereby both target companies are currently wholly-owned by Daimler from Germany, which will continue to own the remaining 35% of share in the listed target company.

9. Concentration of market participants arising from acquisition of control by the company Robert Bosch GmbH from Germany over the business segment (I) providing solutions to repair and maintain vehicles, including products diagnostic, dealer services and equipment, technical information, tools and equipment, daily sales and air conditioning and fluid to manufacturers original auto equipment and to dealer of original auto equipment as well as to the secondary market, and (II) processing of wolfram carbide processing, ceramic processing and other solid exotic materials processed per the specifications, which occurs by acquisition of this business segment, organized through more number of companies directly or indirectly controlled by a company SPX Corporation from United States.

10. Concentration of market participants arising from the acquisition of control by the company ALPLA Holding GmbH from Austria over the company Injectoplast Kunststoffverarbeitungsgesellschaft mbH from Austria, which occurs by purchasing of 100% of the shares in the target company.

11. Concentration of market participants arising from indirect acquisition of control by the company Delta Generali Osiguranje a.d.o. from Belgrade, over the company Blutek Auto d.o.o. from Belgrade, which occurs by establishing a new special purpose company-SPV, which will conclude the Agreement on sale of 100% of shares in the target company with the current owner of the shares.
12. Concentration of market participants arising from acquisition of control by the company Robert Bosch GmbH from Germany, over the business segment for the development, manufacture, sale, or trade of inspection machines for companies engaged in the production of pharmaceuticals and production of machinery for the of pharmaceutical products and packaging materials used for packaging of pharmaceutical products, which occurs by acquisition of all issued shares in circulation by outstanding companies under the direct control of the company Eisai Co. Ltd. from Japan, more precisely the following companies: (a) Eisai Machinery Co. from Japan, (b) Eisai Machinery from the United States, and (c) Eisai Machinery GmbH from Germany.

13. Concentration of market participants arising from the acquisition of control by the company UNIPOL GRUPPO FINANZIARIO S.p.A. from Italy, over the company PREMAFIN FINANZIARIA SpA from Italy, which occurs by purchasing new shares of the company, with immediate acquisition of indirect control of company over the companies owned by the target company, as follows: JOINT STOCK INSURANCE COMPANY DDOR NOVI SAD, Novi Sad, DDOR AUTO d.o.o. from Novi Sad and DDOR RE CORPORATE REINSURANCE COMPANY from Novi Sad.

14. Concentration of market participants arising from the acquisition of control by the company RIRE Holding GmbH from Austria, through its subsidiaries Bulevard Centar BBC d.o.o. and Park City real estate d.o.o. - both from Novi Sad over the company Building Business Center d.o.o. from Novi Sad as the holder and owner of the Project Center Boulevard - business and residential complex in Novi Sad, as well as of certain real estate property in Novi Sad under the project name "Park City", which is currently owned by Vondel Capital d.o.o. from Novi Sad.

15. Concentration of market participants arising from the acquisition of control by the company DTEK Holdings Limited from the Republic of Cyprus, over the public shareholding company Dniprooblenenergo from Ukraine, which occurs by the acquisition of the majority ownership share of 51.56% in the capital structure of the target company.

16. Concentration of market participants arising from the acquisition of control by the company Ringier Axel Springer d.o.o. from Belgrade, over the Business Unit Moj Auto of publishing company Flora d.o.o. from Subotica, which occurs by purchasing the entire property of the Business Unit Moj Auto, which is a part of the assets of the company Flora d.o.o. Subotica based on the Sale and Purchase Agreement, by which the acquirer will become its exclusive licensee owner.
17. Concentration of market participants arising from the acquisition of control by the company IDEA d.o.o. from Belgrade, over the operations of two office buildings in Loznica and Zajecar used by the company DelVel-Pro d.o.o. from Belgrade.

18. Concentration of market participants arising from the acquisition of control by the company TROSILIA HOLDINGS LTD from the Republic of Cyprus, over the company Guernstorm Management Company Ltd, Trobcros Investments Ltd, and Samenis Ventures Ltd, all from the British Virgin Islands, which occurs from gaining 100% participation in the capital in each of the target companies.

19. Concentration of market participants arising from the acquisition of control by the company "Ukrainian Pharmaceutical Holding" from Ukraine, over the company A'STI LIMITED from Ukraine, which occurs by purchasing 100% of shares in the target company.

20. Concentration of market participants arising from the acquisition of non-owner control in defined time period by the company Diamond - Agrar a.d. from Zrenjanin over the agricultural land owned by the Agricultural Cooperative 4 Oktobar Banatski Dvor from Banatski Dvor-Žitište, which occurs by concluding the lease of agricultural land.

21. Concentration of market participants arising from acquisition of control by the company DTEK Holdings Limited of the Republic of Cyprus, over the public joint venture company CRIMENERGO from Ukraine, which occurs on the basis of taking an additional 45% of the shares of the target company from the Ukrainian Property Fund as their previous owner, by which the company DTEK Holdings Limited, together with previously possessed shares in the target company, has majority ownership and control of 57.5% participation in the capital structure of the target company.

22. Concentration of market participants arising from acquisition of control by the company CISCO SYSTEMS INC. from United States, over the company NDS Group Limited from Great Britain, through its indirect subsidiary Cisco Systems Global Holdings Ltd. from Bermuda.

23. Concentration of market participants arising from acquisition of control by the company DTEK Holdings BV from Netherlands, over an open joint stock company MINING CORPORATION PUBLIC OBUKHOVSKAYA, an open joint stock company PUBLIC COMPANY DON ANTHRACITE and limited liability company COMPANY OF
LIMITED RESPONSIBILITY SULINANHTRACITE, all from the Russian Federation, which occurs through direct acquisition of 100% participation in the capital in target company OBUKHOVSKAYA and DON ANTHRACITE and through indirect acquisition of 66.6666% participation in the capital in SULINANHTRACITE – the same share in this company has a target company DON ANTHRACITE.

24. Concentration of market participants arising from acquisition of control by the company for the production, sales and services Elixir Group d.o.o. from Sabac over the company for the production of fertilizers Victoria - Zorka fertilizers d.o.o. from Sabac, which occurs by acquisition of all assets of the target company pursuant to the Agreement on Transfer.

25. Concentration of market participants arising from acquisition of control by the company FrieslandCampina International Holding BV from Netherlands, over the companies AD Imlek from Belgrade and AD Mleka Subotica from Subotica, which occurs by acquiring at least 81.68% of the issued shares of JSC IMLEK from Belgrade and at least 81.76% of issued shares of JSC Mleka Subotica from Subotica from their owner company, Danube Foods Group BV from Netherlands.

26. Concentration of market participants arising from acquisition of control by the company LTD PROMIST from Novi Sad, over the company ENERGIJA TEHNIKA TEHNOLOGIJA d.o.o. from Novi Sad, which occurs by purchasing 73.34% of shares in the target company.

27. Concentration of market participants arising from acquisition of control by the company AUDI AG from Germany, over the company DUCATI MOTOR HOLDING SpA from the Republic of Italy and its affiliates, which occurs by acquiring 100% of shares of the target company on the basis of the Purchase Agreement.

28. Concentration of market participants arising from acquisition of control by the company LTD PROMIST from Novi Sad, over the company HOTEL NARVIK a.d. from Kikinda, which occurs by acquisition of shares of the target company through publishing the offer for takeover of its shares.

29. Concentration of market participants arising from acquisition of control by the holding company Molson Coors HOLDCO -2 Inc. from United States, over the company Starbev
Holdings S.à.rl from Luxembourg, which occurs by purchasing the entire capital share of the target company.

30. Concentration of market participants arising from acquisition of control by the company SYSTEM CAPITAL MANAGEMENT LIMITED from the Republic of Cyprus, over the public joint stock company DONETSK COKE PLANT from Ukraine and private joint stock company ENAKIEVSKIIY KOKSOHIMPROM from Ukraine, which occurs on the basis of acquiring a control share in both targeted companies, by purchasing of defined capital participation in each of these companies from the same vendor - the previous owner of these shares.

31. Concentration of market participants arising from acquisition of control by the company WILD Flavors GmbH from Switzerland, over the assets of the target companies owned by CARGILL groups: CARGILL BV from Netherlands; CARGILL JAPAN LIMITED from Japan and the company CARGILL INCORPORATED from United States, which occurs by acquisition of the target business from the previous owner, CARGILL group subsidiaries.

32. Concentration of market participants arising from acquisition of indirect control by the company Robert Bosch GmbH from Germany, over the company Escrypt GmbH from Germany, which occurs by acquiring 100% of shares in the target company through subsidiary - Entwicklungs Applikationswerkzeuge und für elektronische Systeme GmbH - ETAS from Germany.

33. Concentration of market participants arising from acquisition of control by the company Watson Pharma Sarl from the Grand Duchy of Luxembourg, over the companies: Actavis Pharma Holding ehf 4. from Iceland, Actavis company SARL the Grand Duchy of Luxembourg and the company Actavis Inc. from the United States; which occurs by acquisition, based on the Sale and Purchase Agreement, of 100% of shares in each of these companies, by which control over the entire Actavis Group is establised.

34. Concentration of market participants arising from acquisition of indirect control by the company Robert Bosch GmbH from Germany, over 60% of the assets related to the business segment of the instrumental board system and body control module business segment and navigation of the companies: Atech Automotive Wuhu Co.. Ltd. from the People's Republic of China, through Bosch (China) Investment Ltd. subsidiary.
35. Concentration of market participants arising from acquisition of control by the company Robert Bosch GmbH from Germany, over the entire assets of Koller + Schwemmer GmbH. KG from Germany.

36. Concentration of market participants arising from acquisition of indirect control by the company Robert Bosch GmbH from Germany, over the company Heliotek Maquinas e Equipamentos Ltda. from the Federal Republic of Brazil, which occurs by acquiring 100% of shares of the target company by a subsidiary of Robert Bosch Ltda Campinas from the Federal Republic of Brazil.

37. Concentration of market participants arising from acquisition of indirect control by the company Robert Bosch GmbH from Germany, over the company ECH Energiecontracting Heidelberg AG from Germany, which occurs by acquiring 100% of shares of the target company by a subsidiary of Bosch Energy and Building Solutions GmbH - BEBS from Germany.

38. Concentration of market participants arising from acquisition of control by the company JT International Holding BV from Netherlands, over the company VDM Invest Comm. VA from the Kingdom of Belgium, which occurs by purchasing 99.99% of stocks of the target company by which a purchaser, directly or indirectly, acquires 99.99% of stock capital of the target company, 100% of stock capital in the company Gryson NV, 100% of stocks in the company Dispotrab SL and 50% of stocks in the company Gryson Deutschland GmbH.

39. Concentration of market participants arising from acquisition of control by the company Sberbank of Russia from the Russian Federation, over the company DenizBank AS the Republic of Turkey, which occurs through a contractual acquisition of shares in the target company by two of its largest individual shareholders, Belgian Corporation - Dexia NV / SA and Dexia Participation Belgique SA, by which the acquirer will become the owner of 99.85% of the total share capital of the target company.

40. Concentration of market participants arising from acquisition of control by a private joint stock company System Capital Management from Ukraine, over the company Lemtrans Ltd. from Ukraine and its subsidiaries, which occurs by purchasing at least 50% + one share in the capital of the target company, as part of the scheduled capital increase of that company.
41. Concentration of market participants arising from acquisition of control by a limited liability company Metinvest Eurasia from the Russian Federation, over the closed joint stock company Belgorodmetallosnab from the Russian Federation, which occurs by purchasing 85.21% of capital participation of the target company.

42. Concentration of market participants arising from acquisition of control by a joint stock company UPM AG from Switzerland, over the assets of the company Gascogne Laminates Switzerland SA from Switzerland, which occurs pursuant to the Contract of Assets Sale.

43. Concentration of market participants arising from acquisition of control by the company PHOENIX Pharma d.o.o. from Belgrade, over the company MPI Pharma d.o.o. from Belgrade, which occurs in the way that the acquirer purchases 100% of shares in the target company from the two current owners, who owned 50% of capital share in the target company.

44. Concentration of market participants arising from acquisition of control by the company DOO for the production, sales and services Elixir Group from Šabac, over the Industry of chemical products "Prahovo Djubriva" d.o.o. Prahovo - in bankruptcy, from Prahova, this occurs by purchasing a legal entity in bankruptcy in the public auction procedure, in front of the Privatization Agency of the Republic of Serbia.

45. Concentration of market participants arising from acquisition of indirect control by the company Robert Bosch GmbH from Germany, over the company Haeck AG from Switzerland, which occurs by acquiring 100% of shares of the target company by a subsidiary Buderus HEIZTECHNIK Holding AG from Switzerland.

46. Concentration of market participants arising from acquisition of indirect control by the company Europapier International from the Republic of Austria, over the company Dunav papir d.o.o. from Belgrade, which occurs by acquiring of all the stocks of the group of companies controlled by the same parent company - Australian company PaperlinX Limited, and whose subsidiaries, which are the subject of takeover are in Croatia, Hungary, Serbia, the Slovak Republic and Slovenia on the basis of signed International Contract on sale of shares.

47. Concentration of market participants arising from acquisition of indirect control by the company Mondi Plc from Great Britain, over the company Nordenia International AG
from Germany, which occurs by acquiring 93.4% of shares in the target company by the subsidiary, Blitz 12-403 AG from Germany

48. Concentration of market participants arising from change of common to self-control by a limited liability company Yara Nederland BV from Netherlands, over the company Nu3 BV from Netherlands, which occurs by acquiring 50% of the shares in the target company pursuant to the Sale and Purchase Agreement with the previous owner Nu3 NV, and by its implementation the acquirer, together with previously owned 50% of the shares, will have 100% of shares of the target company.

49. Concentration of market participants arising from acquisition of indirect control by the company MRI Energy AG from Switzerland, over a trade and brokerage company MG OIL d.o.o. from Belgrade, which occurs on the basis of the contractual acquisition of 100% of the shares in the target company, by purchasing of shares from their current owners.

50. Concentration of market participants arising from acquisition of control by the company Finedining Capital GmbH from Germany, over the joint stock company WMF Wurttembergische Metallwarenfabrik Aktiengesellschaft from Germany and of the limited liability company WMF Versicherungsdienst - Gesellschaft mit BESCHRANKTER Haftung from Germany, which occurs on the basis of a contractual takeover from the current owners of the two target companies, at least 52% of shares of WMF Wurttembergische Metallwarenfabrik Aktiengesellschaft, as well as 100% of shares of WMF Versicherungsdienst - Gesellschaft mit BESCHRANKTER Haftung.

51. Concentration of market participants arising from acquisition of the share of 25% of stocks and votes by the company Investment AB Kinnevik from Sweden and thus the direct control over the company Billerud AB from Sweden as part of the purchase price for 100% shares in its wholly subsidiary company KORSNAS AB from Sweden, which sold shares to company Billerud AB.

52. Concentration of market participants arising from acquisition of control by the limited liability company Chicago Bridge & Iron Company NV from Netherlands, over the company The Shaw Group Inc. from the United States, through the subsidiary - corporation Crystal Acquisition Subsidiary Inc. from the United States.
53. Concentration of market participants which occurs in the privatization process, by gaining control by the side of the company Lilly drogerie d.o.o. from Belgrade, over the company Dvadesetprvi maj - turbo engine and transmission limited liability Beograd from Belgrade in restructuring, which occurs by purchasing 100% of the social capital in the company-the target company, which is 99.16% of its total capital, on the basis of the auction proceedings.

54. Concentration of market participants arising from the acquisition of indirect control by the company Robert Bosch GmbH from Germany, over a certain company assets of Izo Brasil Consultoria Ltda. the Federal Republic of Brazil, which occurs over a number of contracts with customers of the company Izo, the basic property which represent the infrastructure center for communication of the company Izo, defined number of employees of the company Izo and Leaseo of Office Space Contract of the company Izo, through subsidiary Robert Bosch Centre de Comunicacao Limitada from the Federal Republic of Brazil.

55. Concentration of market participants arising from the acquisition of control by the company LTD ALMEX Pančevo from Pančevo, over the entire movable and immovable assets of the company IPOK d.o.o. Zrenjanin from Zrenjanin in bankruptcy, which occurs by purchasing stated assets of the debtor, enumerated and identified in Annex 1 and 2 of the Sale of Movable and Immovable Property Agreement at the public auction.

56. Concentration of market participants arising from the acquisition of control by the limited liability company Lovitia Investment Ltd. from the Republic of Cyprus, over the limited liability company Majorone Trading Limited from the Republic of Cyprus, which occurs by acquiring additional newly issued shares of the target company in any way that acquirer becomes the majority shareholder of the target company with 60% share.

57. Concentration of market participants arising from the acquisition of control by the company Saint-Gobain Construction Gradjevinski proizvodi d.o.o. from Belgrade, over the company CARBON Gradjevinski proizvodi d.o.o. from Topola, which occurs by purchasing 100% of share in the company which was founded for the purpose of the transaction by its parent company CARBON d.o.o. from Topola, which has in its newly established subsidiary - here the target company, transferred its own property as contribution in kind, which represents 100% of the equity capital of the target company which is the subject of takeover.
58. Concentration of market participants arising from the acquisition of indirect control by the company Robert Bosch GmbH from Germany, over the company Ningbo Hahgzhou Bay New Zone POLTM Electric Motor Co. Ltd. from the People's Republic of China, which occurs on the basis of acquisition of 60% share in the company, through subsidiary, Bosch (China) Investment Ltd.

59. Concentration of market participants arising from the acquisition of control by the limited liability company Elianto Ltd. from the Republic of Cyprus, over a group of companies including: Merus d.o.o, Ario d.o.o, Akus d.o.o, Klios d.o.o, Modus Capital d.o.o, Ridos d.o.o, Santos Capital d.o.o, Validus d.o.o, all based on the same registered address in Ukraine and all owned and controlled by the same company, as well as individual control of the limited liability company Yernamio Consulting Ltd. From the Republic of Cyprus over the public joint stock company Bank Forum of Ukraine, which is owned by the same group of companies to which the previous owner of all Ukrainian companies which will be taken over by the company Elianto Ltd.

60. Concentration of market participants arising from the acquisition of control by the company "Centrosinergija " d.o.o. from Belgrade, over the predominantly part of operation of the company Commerce and craft business "Paralela" d.o.o. from Belgrade, which refers to the segment of distribution of prepaid cards as well as the corresponding terminal system for processing electronic vouchers.

61. Concentration of market participants arising from the acquisition of control by the company "Centrosinergija " d.o.o. from Belgrade, over the predominantly part of operation of the company "E - teleserv" d.o.o. from Belgrade which refers to the segment of distribution of electronic prepaid recharge of mobile operator Telekom and VIP Mobile as well as the corresponding terminal system for processing electronic vouchers.

62. Concentration of market participants arising from the acquisition of control by the company Robert Bosch GmbH from Germany, over the entire capital of the following companies: AMPACK Ammann GmbH & Co. KG. KG, Ingenieurbüro Ammann GmbH & Co. KG. KG, Ammann Beteiligungsgesellschaft mbH and Ingenieurbüro Ammann Beteiligungs GmbH, all from Germany.

63. Concentration of market participants arising from the acquisition of control by the Company for production, trade and foreign trade Kartonval d.o.o. from Belgrade, over the Fodder Factory Proteinka d.o.o. from šabac, which occurs by contractual acquisition of
100% of shares of the target company by the company Magnavita Holding Co, the former owner.

64. Concentration of market participants arising from the acquisition of control by the company "Centrosinergija" d.o.o. from Belgrade, over predominant part of the Company for the design, planning, engineering, installation and maintenance of telecommunications "Konsing Group" d.o.o. from Belgrade, which refers to the segment of distribution of electronic prepaid recharge for mobile telephony of Telekom and VIP Mobile operators, and the corresponding terminal system for processing electronic vouchers.

65. Concentration of market participants arising from the acquisition of indirect control by the company Robert Bosch GmbH from Germany, over the entire capital of the company SB LiMotive Germany GmbH from Germany and Cobasys LLC from the United States, through the subsidiary, Robert Bosch Investment Nederland BV.

66. Concentration of market participants arising from the acquisition of control by the company Adria Media Limited of the Republic of Cyprus, over the company TV CHANNEL ULTRA d.o.o. from Belgrade, which occurs by acquiring a 25% of shares in the target company, after which the acquirer, through subsidiaries, has control over the 75% of shares in the target company.

67. Concentration of market participants arising from the acquisition of control by the company Dürr Systems GmbH from Germany, over the company Therme Energiyeesysteme GmbH from Germany, which occurs by acquisition of partial share in the target company, which provides the control over the same company.

68. Concentration of market participants arising from the acquisition of control by the company Portinvest Limited of the Republic of Cyprus, over the company with limited liability Moorages of Comintern from Ukraine, which occurs by purchasing 100% of shares in the target company.

69. Concentration of market participants arising from the acquisition of control by the company Robert Bosch GmbH from Germany, over the entire capital of the company Biomasseheizkraftwerk Alperstedt GmbH from Germany, by which exclusive control over the target company is acquired.

70. Concentration of market participants arising from the acquisition of indirect control by the company Robert Bosch GmbH from Germany, over the entire equity capital of the company sia Abrasives Company Ltd. from Hong Kong, through the subsidiary company owned exclusively by sia Abrasives Industries AG of Switzerland, by which exclusive control over the target company is acquired.

71. Concentration of market participants arising from the acquisition of non-ownership control with fixed-time duration of one year by the company Dijamant - Agrar a.d. from
Zrenjanin, over agricultural land owned by the Agricultural Cooperative 4 Oktobar Banatski Dvor from Banatski Dvor- Žitište, which occurs under the Agreement of Agricultural Land Lease concluded on October 25 2012.

72. Concentration of market participants arising from the acquisition of control by the company Robert Bosch GmbH from Germany, over the entire capital of the company Bosch Emission Systems GmbH & Co. KG from Germany, by which exclusive control over the target company is acquired.

73. Concentration of market participants arising from the acquisition of control by the company NBGI Private Equity Limited, from United Kingdom, over the Company for the exploitation of mineral water and beverage production "Knjaz Miloš" a. d. from Arandelovac, which occurs on the basis of the signed Concept on the main conditions - Term Sheet, in such a way that the acquirer, through one of its related entities, by acquiring 100% of the shares of the target company from its current owner - a limited liability company Clates Holding BV from Netherlands, acquires sole control of the target company.

74. Concentration of market participants arising from the acquisition of control by the company NATIONAL BANK OF GREECE SA from the Republic of Greece, over the company EUROBANK ERGASIAS SA from the Republic of Greece, by which NATIONAL BANK OF GREECE SA acquires indirect control over the following companies: Eurobank EFG a.d, ERBA Asset Fin d.o.o, EFG Business Services d.o.o, EFG Leasing a.d, ERBP Property Services d.o.o, IMO Property Investments a.d. and Reco Real Property a.d, all based in Belgrade.

75. Concentration of market participants arising from the acquisition of control by the company UMBH Ukrainian Machine Building Holding Limited from the Republic of Cyprus over the public joint stock company Kharkov Machine-Building Plant World shakhty from Ukraine, which occurs through the establishment of the ownership of more than 50% of the share capital of the target company.

76. Concentration of market participants arising from the acquisition of control by the company "Czech Gumárenská společnost" s.r.o. from the Czech Republic, over the company „Savatech družba proizvodnjo in trženje gumenotehničnih proizvodov in pnevmatike“ d.o.o. from the Republic of Slovenia and over the company "Savapro Holding" d.o.o. from the Republic of Slovenia, which occurs pursuant to the Contract of Sale and Transfer of Shares of October 25 2012, by which 100% of shares in the equity capital of the company „Savatech družba proizvodnjo in trženje gumenotehničnih proizvodov in pnevmatike“ d.o.o. and pursuant to Contract of Sale and Transfer of Shares of October 25 2012, by which 60% of shares in the equity capital of the company "Savapro holding" d.o.o. is acquired from the same previous owner of the shares in both
of the target company - a joint stock company „Sava, družba za upravljanje in financiranje“ d.d. from the Republic of Slovenia.

77. Concentration of market participants arising from the acquisition of indirect control by the company Company for research, production, processing, distribution and sale of petroleum and petroleum products and exploration and production of natural gas "Naftna industrija Srbije" a.d. from Novi Sad, over the company "OMV" d.o.o. from Bosnia and Herzegovina, through subsidiary - "NIS Petrol" d.o.o. from the Serbian Republic (Republika Srpska), which occurs through a contractual takeover of the entire share in the target company.

78. Concentration of market participants arising from the acquisition of control by the company "Alpha Bank" SA from the Republic of Greece, over the company "Emporiki Bank of Greece" SA, from the Republic of Greece, which occurs on the basis of a contractual acquisition of total shares in the target company, by which the acquirer will become the owner of 100% of the total share capital of the target company.

79. Concentration of market participants arising from the acquisition of control by the Company for the production and sale "Industrija mesa Matijevic" d.o.o. from Novi Sad, over the Joint stock company for agricultural production "Agrovršac" from Vršac, which occurs on the basis of publicly announced offer for shares acquisition of the target company, and through its implementation the bidder acquires controlling shares in the target company.

80. Concentration of market participants arising from the acquisition of control by the company Al Chem & Cy SCA from the Grand Duchy of Luxembourg, over the company Cytec Surface Specialties SA from the Kingdom of Belgium, which occurs by acquisition of all shares of the target company, and part of operations of the related companies and members of the same group of companies - Cytes Industries Inc. from the United States, which consists in the production of resins for coatings, which occurs by acquiring a part of the assets of the company.

81. Concentration of market participants arising from: 1. the acquisition of control by the company Ferrero International SA from the Grand Duchy of Luxembourg over NAT operations (purchasing, processing and selling of hazelnuts in "Ferrero quality" in their natural form) of the company IF Stelliferi SpA from the Republic of Italy, which whole transfers part of its business (NAT operations) to two newly created entities - its subsidiaries: Stelliferi & Itavex SpA from the Republic of Italy and Stelliferi Findik from Turkey and 2. the acquisition of joint control by the corporate Ferrero International SA and IF Stelliferi SpA over the SL operations (sale of hazelnuts that are not "Ferrero quality" in their natural form) which belongs to Stelliferi Group.
Pursuant to Article 17 Paragraph 1 Item 3 of the Law on Protection of Competition, which refers to the formation of concentration through a joint venture or joint control, a total of 13 decisions were issued (ie 12.38% of the total number of decisions), which approved the following concentrations in summary proceedings:

82. Concentration of market participants arising from joint venture of the Public Company SRBIJAGAS from Novi Sad, Open Joint Stock Company Gazprom from Russian Federation and company South Stream Serbia AG from Switzerland, in order to create a new undertaking that will operate under the name of South Stream d.o.o. and that will be based in Novi Sad.

83. Concentration of market participants resulting in creation of a new joint venture that will operate under the name BS Systems GmbH & Co. KG. KGsa, based in Germany, and whose founders are, the company Robert Bosch GmbH from Germany and Sortimo International Ausrustungssysteme fur Servicefahryeuge GmbH from Germany, by the 50%: 50% model of investing, and as a joint venture.

84. Concentration of market participants arising from joint venture of the company BNP PARIBAS PERSONAL FINANCE SA from the Republic of France and the company SBERBANK OF RUSSIA from the Russian Federation, in order to acquire joint control over the company COMMERCIAL BANK "BNP PARIBAS EAST" from the Russian Federation.

85. Concentration of market participants arising from the acquisition of joint control by the Joint Stock Company FABRIKE HARTIJA for production of worthless and packaging paper from Belgrade, the Company for production of cardboard packaging VALA ADA d.o.o. from Belgrade, Joint Stock Company UMKa Fabrika kartona from Umka, Joint Stock Company JAFFA Biscuit factory from Crvenke, the company BEOHEMIJA d.o.o. production, trade and services from Belgrade, Production and trade company BRZAN-PLAST SIMIC RADE I DR o.d. from Brzan, over the Company for managing of packaging waste EKOSTAR PAK d.o.o. from Belgrade, which occurs by acquiring share of 16.66% in the capital of the target company, with which every company that participates in the performance of future joint control over the target company will be disposing with.

86. Concentration of market participants resulting in a joint venture in the company JCMM Automotive d.o.o. from Belgrade, in the way that the company Johnson Controls from the Republic of Italy will transfer 50% of its share in the company JCMM Automotive d.o.o. to the company Plastic Components and Modules Automotive SpA from the Republic of Italy - a subsidiary controlled by a company Magneti Marelli, by which the target company becomes a joint venture between the companies Magneti Marelli and Johnson Controls, which will acquire a joint control over it.
87. Concentration of undertakings arising from the acquisition of joint control by the company Varioform PET Verpackung GmbH from Austria, the company Boresaona Ltd. from the Republic of Cyprus and Energoprojekt Industry a.d. from Belgrade, over the company Energo PET Ltd. Belgrade, which occurs based on the Contract of Sale of Shares by which implementation the stakes in the company Energo doo Beograd PET as the target company, will be distributed in a way that the company Varioformm PET Verpackung Gesellschaft mbH has 50.01%, Energoprojekt Industry a.d. 33.33%, and the company Boresaona Ltd. 16.66% of shares of the target company.

88. Concentration of market participants resulting in a joint venture in order to create a new market participants - company that will operate under the name of Barentz Ravago Chemical Specialist SA and will be based in the Grand Duchy of Luxembourg, in the way that company Ravago SA, Grand Duchy of Luxembourg and Barentz Europe BV from Netherlands will delegate their current operations, more precisely the company Ravago SA will delegate operations relating to animal feed, and the company Barentz Europe BV a part of the operations that deal with the distribution of chemicals so the target company becomes a joint venture in a 50%: 50% of its founder, who will exercise joint control over it.

89. Concentration of market participants arising from the acquisition of joint control by the company Reventon BV from the Netherlands and Accor Holding BV from the Netherlands over the Joint Stock Company Ezpada AG from Switzerland, which occurs by acquisition of 50% of shares by the side of Dutch companies in the target company, and by which they become the sole owners and controllers of the target company.

90. Concentration of market participants resulting in creation of a new joint company with limited liability that will operate under the name TOGNUM TRANSMASHHOLDING BV and will be based in the Netherlands, as a fully functioning and independent market participant that arose from the joint venture of its founders, the company JSC TRANSMASHHOLDING from Russian Federation and the company TOGNUM AG from Germany, who will conduct joint control over the target company.

91. Concentration of market participants arising from the acquisition of joint control by the companies TRK MEDIA HOLDING LIMITED from the Republic of Cyprus and the United Media Holding NV from the Netherlands, over the company UOV-UNITED ONLINE VENTURES LIMITED from the Republic of Cyprus and its three indirectly controlled companies from Ukraine: Bigmir ONLINE LIMITED LIABILITY COMPANY, I UA LIMITED LIABILITY COMPANY and the company DIGIMEDIA
LIMITED LIABILITY COMPANY, as well as over the company DIGITAL VENTURES LIMITED LIABILITY COMPANY from Ukraine.

92. Concentration of market participants arising from the acquisition of joint control by the companies Varioform PET Verpackung Gesellschaft mbH from the Republic of Austria and Energoprojekt Industrija a.d. from Belgrade, over the company Energo PET d.o.o. from Belgrade, which occurs on the basis of the Agreement on Transfer of Shares, and by which implementation the shares in the company Energo PET d.o.o. from Belgrade as the target company, will be distributed among the shareholders so that company Varioform PET Verpackung Gesellschaft mbH has 66.67%, and Energoprojekt Industrija a.d. 33.33% of shares of the target company.

93. Concentration of market participants arising by establishing a joint venture company, founded by the company Verbund AG from the Republic of Austrian and the company Siemens Aktiengesellschaft from Germany, each with a 50% of shares in the target company, which will be jointly controlled.

94. Concentration of market participants arising from the acquisition of joint control over the company WALMARK from the Czech Republic, by the side of the company Vita Central Europe BV from the Netherlands and ATERNUS from the Czech Republic.

In 2012, summary proceedings were not initiated in relation to Article 17 Paragraph 1 Item 1 of the Law on Protection of Competition, which refers to the formation of concentration in the case of mergers and other status changes.

6.2. Concentrations that are solved ex officio

During 2012, the Commission has implemented three proceedings ex officio, as a continuation of the proceedings initiated on the application of concentration and has made one forbidding and 2 conditionally endorsing decision, and those are:

ŠTAMPA SISTEM d.o.o. - Futura Plus d.o.o. in bankruptcy

Concentration is conditionally approved by the Decision resulting in acquisition of control by the company Štampa sistem d.o.o. from Belgrade, over the company Futura Plus d.o.o. in bankruptcy, Belgrade-Zemun, which occurs by the acquisition of the majority share in the equity of the target company. In the Decision, conditions under which the concentration is approved, the deadline for completion, and the method of control are specified. This process was initiated by the application of concentration, and has continued as an ex officio procedure.
Commenting on the Notification made by the Commission on the facts set forth in the proceedings, the applicant submitted a proposal for measures of behavior which are given in order to fulfill the requirements for the approval of the implementation of the concentration. Given the proposal is accepted, and the same shall consist of prescribing measures to limit the increase in number of kiosk format shops that are participants in the concentration in relation to their current number, in the following municipalities: Bačka Topola, Apatin, Indija, Bečej and urban municipalities of the City of Belgrade - Stari Grad, Centar and Zvezdara. These measures define the beginning of their use and their duration, time period in which the person responsible for the supervision of implementation of these measures is appointed, and the method and dynamic of reporting to the Commission about the Štampa sistem execution in terms of prescribed measures and behavior in accordance with these measures. Prescribed measures also provide behavior in the event of significant changes in the structure of the relevant retail market of cigarettes, newspapers, and electronic prepaid cards in kiosk format stores in the territory of the aforementioned municipalities. If in the estimated time period of the prescribed measures, the relevant market structure is changed so that the combined market share of the participants of concentration - determined in relation to the criteria of the number of stores, is reduced in the territory of any of the municipalities to a share less than 30% - which is considered as a significant change in the market structure, in this case it may be requested from the Commission, to make appropriate changes of underlined Decision or to amendment measures which represents a part of the Commission's Decision on the conditional approval of this concentration.

The measures are defined only for the territory of these municipalities, as it is found in the process that, out of the 146 analyzed municipalities and cities in Serbia, in only 44 of them (which accounted for 33% of the total number of municipalities and cities in which the participants of the concentration are present) there is an overlap, that is, both parties of the concentration are present and active. Market share in the territory of Savski Venac is 39.32%, 39.62% of market share is in the territory of Vračar, while in Belgrade the largest share is in the municipality of Zvezdara which is 40.86%, in Apatin the market share is 46.67%, in Bačka Topola 50%, in Indija 45.83% and in Bečej 40%. In other municipalities, the market share is much lower.

Compared to the narrowest definition of the relevant market of products in the Republic of Serbia, meaning the entire national territory, a total of 5,822 retail stores are operating. In this number, Štampa’s and Futura’s kiosks are present with 1,339 objects, or 23% (where Štampa’s kiosks are present with a total of 533, accounted for 9.15% and Futura’s kiosks with 806 objects, which represents 13.4% of all retail objects involved in the relevant market).

The Commission took into consideration the fact that the target company is in bankruptcy.
Concentration is conditionally approved by the Decision resulting in acquisition of control by the company "Centrosinergija" doo, Belgrade, predominantly over the operations of the company "Lanus" d.o.o. from Belgrade, which occurs by acquiring the E-prepaid recharge for mobile telephony activities. In the Decision, conditions under which the concentration is approved, the deadline for completion, and the method of control are specified. This process was initiated by the application of concentration, and has continued as an ex officio procedure.

Commenting on the Notification made by the Commission on the facts set forth in the proceedings, the applicant submitted a proposal for measures of behavior which are given in order to fulfill the requirements for the approval of the implementation of the concentration. Give proposal is accepted, and the same is consisted of prescribed structural measures, which bound Centrosinergija to alienate and make all reasonable efforts to sell (alienate) between 3500 and 4000 GPRS terminals that are used for providing prepaid recharges of mobile network operators Telekom Srbija a.d. Belgrade and Vip mobile d.o.o Belgrade, in order to reduce the market share of Centrosinergija (with its affiliates) to 16% (sixteen index points) according to the criteria of income in retail stores in a defined relevant market of goods and services. The sale may be conducted only to the person who is not a related to the company Centrosinergija within the meaning of the Law on Protection of Competition. The second condition under which concentration is approved (behavioral measure) consists in an obligation of Centrosinergija to determine the general and unique rebates policy based on cascading rebates, more precisely to determine business conditions in terms of amount of rebates that Centrosinergija gives to its sub-distributors and retail outlets, with which it is in the direct contractual relationship, all in accordance with the Law on Protection of Competition. Centrosinergija is further obligated not to allow to its affiliates to sign contracts on sub-distribution of prepaid recharge of mobile operator Telekom Serbia a.d. Belgrade, but only for its own outlets.

The main goal of behavioral measure is to ensure that the applicant is required to engage a larger number of sub-distributors, who will represent a link to the final retail customers, as well as to provide to all sub-distributors, in the same group to which they belong (in relation to the achieved level of market share), equal business conditions from the viewpoint of high rebates. Only in this way, the sub-distribution market segment will maintain an adequate level of mutual competition. Also, by prescribing these measures, there is a possibility of sub-distributors of this operator and an equal chance of their market expansion, as well as the possibility of reaching that level of market share in the distribution market, which could possibly allow the development from the status of sub-distributors in the distributor status of "Telekom Serbia" based on reaching a preset level of 5% market share in the relevant market as a prerequisite for obtaining this status.

Structural measure is prescribed, since in the case of unconditional approval, the applicant together with related undertakings would, in the defined relevant market, achieved a market share
of close to 80%, while all other competitors, according to the Commission to are about 50, would have a slightly more than 20% of the combined market share. Of these, six participants with the largest individual market shares, in aggregate would reach a market share of around 10%. By prescribing structural measures, Centrosinergija’s market share is reduced to about 63%, while the market share of competitors or the number and strength of competitors is increasing.

**SUNOKO d.o.o. - HELLENIC SUGAR INDUSTRY SA**

Commission’s Decision has prohibited the concentration of market participants that may be caused by gaining direct control by the company SUNOKO d.o.o. for sugar production and trade from Novi Sad over the company HELLENIC SUGAR INDUSTRY Sa from the Republic of Greece, by purchasing a majority of the shares of the target company. The Commission has sent a notice to the applicant of the facts set forth in the proceedings, indicating that the concentration does not meet the admissibility, and it cannot be approved without mandating specific requirements. Commenting on this announcement, the applicant submitted a draft of special conditions that it is willing to accept in order that the concentration could be granted, and which the Commission did not accept. SUNOKO Company d.o.o. filed an administrative complaint. Administrative Court - Department of Novi Sad, reversed the Decision of the Commission and also returned the same for a new trial on the grounds that the Commission noted, but not explained, the reasons why the proposed conditions are not adequate in terms of Article 19 of the Law. The reason for the annulment aroused “wonderment” given that the provided reasons are elaborated on more than 4 pages explaining why the proposed conditions are not suitable. In the meantime, tender in Greece was unsuccessfully completed, so the applicant withdrew his application, that is, the process is terminated.

Having announced a new tender for the sale of the majority shares of the company HELLENIC SUGAR INDUSTRY SA, a company SUNOKO d.o.o. for sugar production and trade from Novi Sad, has filed a new concentration application that would occur (also) by the acquisition of direct control over the company HELLENIC SUGAR INDUSTRY SA, from the Republic of Greece. This procedure was continued as an ex officio procedure in terms of Article 62 of the Law, and currently the Commission sent a Notice to the applicant on the facts set forth in the proceedings, indicating that the concentration does not meet the admissibility, and it cannot be approved without mandating specific requirements. Sunoko’s Declaration and any eventual Suggestion of special requirements is expected, which should be provided in order to fulfill the conditions of admissibility of concentration.

In short, the essential facts of which depends the approval of the implementation of the concentration are:

The applicant is the largest producer and exporter of sugar in the Republic of Serbia and the owner of three privatized sugar mills in Vrbas, Pećinci and Kovačica. In addition to sugar, the
applicant also produces by-products of sugar beet, such as molasses and beet pulp. The target company is the only Greek producer of sugar, and it also produces molasses and sugar beet seed. The target company is present on the domestic market with the majority shares in the Sugar Factory in Crvenka and the Sugar Factory in Žabalj.

For the purpose of proper assessment of the overall effects of the implementation of the concentration at all levels of the operations of its participants, the Commission has defined three distinct relevant product markets: 1) purchase of sugar beet market (with the participation of producers of raw materials, or the organizers of its selling - on the supply side, and the sugar factories on the customer side, which purchase sugar beet for it further processing, in order to produce sugar), 2) the market of sugar production by processing of sugar beet, 3) the wholesale market of sugar intended for the national market, as well as to the CEFTA and EU market. As the relevant geographic market, the market of the Republic of Serbia is determined.

During the ex officio procedure, from the applicant, the target company, its sole competitor, from the number of manufacturers and suppliers of sugar beet, from the largest retail chains in the country which are applicant's the most significant buyers of sugar intended for final sale to customers in the retail, from sugar buyers on the industrial sugar sales market, from a number of state agencies and institutions, is required to submit specific data and information.

Determined facts have shown that the implementation of the concentration, leads to strengthening of the market power of the acquirer of the control on each of the relevant markets. Furthermore, by aggregating power of the applicant and the target company - now independent market participants, there would be a strengthening of the existing dominant position in the company SUNOKO, for the power of acquired companies and in each of the segments of a complex technological processes related to the production of sugar, which includes both purchase of the necessary raw materials for the production and marketing of the finished product.

This means that the immediate consequence of this concentration would be a significant change in the structure of the relevant market, which is reflected in the reduction of the number of participants, that is, the case of existence of the company which up to the implementation of concentration functioned as a direct competitor of the applicant. Therefore, the Commission considers that the fulfillment of the conditions for approval of this concentration could be appreciated only by prescription and application of some of the structural measures, with the parallel implementation of certain measures and behavior. Appropriate structural measure should influence the structure of the market, which would be created by acquiring of the target sugar factories, in such a way that that measure simultaneously leads to achieving two goals. The first is the reduction of some of the market power of the applicant, which results from the subject concentration, and which would be achieved by alienating part of the production capacity and operations (divestiture of the business), thereby enabling and achieving the second goal - and that is the introduction of a new competitor in the market, or possible strengthen of the existing, in
order to avoid or substantially reduce the occurrence of asymmetric duo-polic structure. Dissolution or sale must be such as to ensure competitiveness of "Dissolute" part of the market, and that, therefore, includes movable and immovable property, intellectual property rights, licenses, permits, and similar rights (and obligations) of customer contracts and purchase orders and similar, takeover of the employees, etc.

As for the application of measures of behavior, they are primarily defined and sectioned with distinctive pricing policy which the applicant apparently in 2011, and on it basis the applicant formed substantially different wholesale prices to sell the same product, in terms of its placement in the country, or in the case of export of this product. In 2012, applicant somewhat changed its pricing policy with respect to wholesale prices. In the opinion of the Commission, a change of business conduct of the applicant in terms of the future pricing policy of its products is necessary. In this sense, the aim of this measure is to provide a balanced long-term price level of the final product, by which it sells to all categories of consumers, which until now has not been the practice in the behavior of the applicant.

6.3. Information about the findings of the sale of a 50% shares in the company "Politika novine i magazin" (pnm) d.o.o. Belgrade in regard to the applications of the law on protection of competition

Since the company OOO Media Group, based in Moscow, has not filed the concentration application to acquire control over the company Politika Newspapers and Magazines POLITIKA NOVINE I MAGAZIN" (PNM) D.O.O. BELGRADE, as of Tuesday, July 17 2012, although it was obvious that there was a transaction, the Commission has taken a number of actions in order to determine the conditions for the possible initiation of ex officio proceeding. The Commission addressed, on several occasions, with the Request for information in accordance with Article 48 of the Law to: the target company PNM, the Business Registers Agency and Attorney Nikoletina Vučenović (authorized by the Director of the Purchaser, Uroš Stefanović on July 13, 2012, and he was previously a deputy director of the BRA), under the threat of applying the provisions of Article 70 of the Law. Out of all of these parties, provided information was incomplete, and in particular section inaccurate.

From the submitted data, derives the following:

- By concluding the Purchase of Shares Agreement on June 29 2012, the company OOO EAST MEDIA GROUP, Moscow, registered in the Russian Federation, acquired 50% ownership shares in PNM. Business Registers Agency of the Republic of Serbia (BRA) has registered this change of ownership on July 16 2012, that is, on same day that the registration application on data changes with the documentation was filed, without
informing the Commission about the same. The founder and owner of this company is a natural person, Aleksandar Trbović.

- The purchaser, by acquiring 50% ownership shares in PNM, gained joint control, so implementation of the stated transaction lead to the concentration within the meaning of Article 17, paragraph 1, Item 3) of the Law.

- On December 27 2012, the Commission received an undated Information from the Director of the Purchaser, from Uroš Stefanović, in which it is stated, inter alia, that "OOO East Media Group is unable to exercise effective control over the independent PNM, but it takes part, along with other members of company, in the exercise of joint control" and that "the application was not submitted because according to the experts, regulations of the Republic of Serbia do not provide an obligation of filing an application unless participants of the concentration achieved certain revenue in the preceding year. In this case, no statutory limitation on annual income is exceeded according to the information we had."

- Starting with the provisions of Article 61 of the Law, which prescribe the conditions under which there is an obligation to file the concentration application, it was determined that the target company PNM, in 2011, had total annual revenues of 2,114,205,000.00 RSD, or 20,204,384.7 EUR (according to the official middle exchange rate on December 31, 2011). As the purchaser, OOO East Media Group, was founded in 2012, and it has no income, the Commission, among other things, requested information from BRA on whether this company has any registered subsidiaries, as well as whether is the owner of the purchaser, OOO East Media Group, through the participation in equity and management present in the companies registered and active in the Republic of Serbia, and if there are such companies, the registered data on these companies. However, in BRA response it is stated that without the identification number of the founder and owner, it cannot provide an answer.

The Commission continues to take actions on obtaining evidence on income for the participants in this transaction and related market participants, in order to evaluate whether there is an obligation of filing a concentration application.
7. JUDICIAL REVIEW OF THE DECISIONS

Administrative Court, in the past year, has largely respected the legal deadline of 2 months from the receipt of the appeal for decision. Deadline in which the court (Administrative and Supreme Court of Cassation) decides are extremely important for the Commission, and also for market participants. The fact that the Commission receives decisions of the Supreme Court of Cassation after one year from the date of the application to the Court (sometimes this period is longer), the Commission's decision ordering the execution of the obligations within the time prescribed by the Law, in practice, is in a way pointless, not only in relation the prescribed measures, but also on the implementation of the Law itself. Baring in mind the prescribed limitations period (3 years), it is reasonable to ask whether the Commission has the right to a fair trial before the Supreme Court of Cassation. This problem, in order to ensure legal certainty, has to be resolved, and the possible appropriate solution is, prescribing time limits for decisions of the Supreme Court, that is, complying with the time limits prescribed by the Law, of course, when it comes to matters of the protection of the competition.

Improving competition implies, as conditio sine qua non, an appropriate development and improvement of the court practice in this area, which influences on the practice of the Commission, and on the acts and behavior of market participants. The Commission must emphasize that the Administrative Court decisions showed some reluctance in order for the court to deal with this matter "by itself" and that it based its decision solely on the statement of the prosecutor seeking the annulment of the Commission’s decision, with the superficial and selective disclosure of the Commission’s statements. In that sense, Court's decisions in the following cases are especially characteristic: Sunoko d.o.o. (that has already been discussed), SP Lasta and Europe bus; Nis Ekpres and Jeremić Prevoz (in both cases it is a matter of the restrictive agreements establishing the cost of services). In the decision for Nis Express and Jeremić Prevoz, the court even said that it was a matter of "undeveloped area", which indicates a lack of understanding of the essence of the matter of competition, ie the violation of competition, because a violation in such an area is even more serious because of the additional closing of the market, or prevention of its development. In the case of SP Lasta and Europe bus, the court even failed to, in administrative proceedings, deliver to the Commission the complaint of Europa bus on answer. Requests for reconsideration of the court's decision were submitted to the Supreme Court of Cassation for both cases.

In addition, a serious problem for the Commission, and to any public authority in the case of cancellation of the decision and its revised proceeding, is the lack of clear and reasoned grounds for annulment, which primarily affects the right of each party to a clear and reasoned court decision, but also the obligation of the authorities to act in full accordance with the observations and opinion of the Court.
8. INSTRUCTIONS AND OPINIONS

8.1. Application of the principles in ensuring competition in the public procurement

In 2011, the Commission has issued the Instruction for detecting rigged bids in public procurement procedures. After that, in the previous year, the Commission received dozens of requests to suspend the public procurement procedure because the requirements for the participation of bidders were discriminatory or to issue an opinion that the prescribed conditions for participation in the particular procurement are not in accordance with the rules of the protection of the competition. This situation, on one hand, points to the present problems in public procurement procedure, which will hopefully be resolved, at least in a larger amount of cases, by application of the new Law on Public Procurement. On the other hand, the conclusion is that market participants do not differ the jurisdiction of the Commission and other authorities responsible for implementation of the Law on Public Procurement. To further explain this matter, Commission issued a Notice regarding the request of applying the principles in ensuring competition among bidders (Article 9 of the Law on Public Procurement).

In Instruction for detecting of bids rigging in public procurement procedures, among other things, it is pointed out that the Commission is responsible for implementation of the provisions of the competition in which as a type of prohibited restrictive agreement may appear a secret collusion of competitors to jointly appear when submitting a bid in the public procurement procedure - rigged offer (bid rigging). Such collusion is regulated by the provisions of Article 10 of the Law on Protection of Competition and represents one of the prohibited restrictive agreements between market participants aimed to significantly violate competition in the Republic of Serbia. However, the Commission is not responsible for the implementation of the principle in ensuring competition among the bidders.

In the Notice it is clarified that the requirements for the protection of rights in Public Procurement Procedures, which are challenging the contents of the public calls regarding discriminatory requirements and criteria, are submitted to the Republican Commission for the Protection of Rights in Public Procurement Procedures and that in the case of knowledge of the existence of the so-called bids rigging, it needs to be addressed to the Commission for Protection of Competition. This way, it is indicated that it is not just about two completely different types of law violations, but also violations of various laws, which have in common only that the two violations are committed in the process of public procurement.

8.2. Opinions given in regulations affecting the competition in the market

The Law on Road Traffic, The Law on Road Traffic Safety (the lowest price for long distance transport by road kilometer - the price of training of the candidates for drivers)
The Commission for Protection of Competition has received a request for an opinion on the current regulations that have an impact on competition, directed by the Ministry of Foreign and Domestic Trade and Telecommunications, which is related to:


- the provisions of Article 218 Paragraph 1of the Law on Road Traffic Safety ("Official Gazette" no. 41/2009 , 53 /2010 and 101/2011 ) , which provides : "The government determines the lowest price of theoretical and practical training on the proposal of the Ministry of Internal Affairs and on the opinion of Ministry responsible for trade and services."

A careful analysis of the provisions of Article 23 Paragraph 4 of the Law on Road Transport and Article 218 Paragraph 1 and 2 of the Law on Road Traffic Safety, it is concluded that in both cases, the term "lowest price" is used in the meaning of "minimum price".

Generally, the determination of the minimum or fixed price of real goods and services to market participants, regardless of whether such determination comes from government authorities or it is the result of the activities of market participants, produces harmful effects in the market and is contrary to the rules of protection of competition.

Determining of the "lowest price", "minimum price" or "fixed price" at which the market participants should, especially in the case if they have to provide their services, or put their goods on the market, represents so-called "hard core", that is, a kind of pricing policy which is not allowed and cannot be exempted from the prohibition.

In extremely rare cases, there may be an acceptable justification for the need to price determination in further sales (service) in the form of determining the minimum or fixed prices. In this the particular situation, the Commission does not recognize any of these "exceptional" situation. Notwithstanding the importance of the objective to be achieved by prescribing the lowest prices, there is always the possibility to otherwise achieve the same goal, while the "other way" does not threaten competition in the market.

In particular, if the objective of Article 218 Paragraph 1 and 2 of the Law on Road Traffic Safety is to provide necessary (high) quality of training of candidates for the drivers, then this goal, in the opinion of the Commission, is not necessarily achieved by prescribing the minimum price that the legal entity that conducts training must apply, and that a candidate must pay. The aim may be achieved by laying down all the necessary requirements, in terms of technical and human resources, a legal entity must meet before it could organize and conduct training of candidates. If,
in addition, the strict control mechanisms for fulfillment of conditions, and the conditions for regular implementation of control mechanisms are provided, the goal can be achieved. The success of the organization of work and the efficiency of each participant, and of course the price level that would apply, would influence its "attractiveness" on the candidates as users of this service, and therefore its competitiveness in the market of specific services. The practice of setting minimum prices contribute to creating a climate in which arise prohibited agreements of competitors, market and consumer division, elimination of the mutual competition, while at the same time the need of a particular service provider to invest in innovation and improving the quality of service is reduced to a minimum or entirely eliminated.

In relation to the provision of Article 23 Paragraph 4 of the Law on Road Transport, the Commission finds that in relation to the previously mentioned, the "issue" of competition is even more pronounced.

Besides all presented attitudes regarding the prescription of the "lowest price", it necessarily raises the question, or questions, what is the "cost in public road transport", who determines the price and on the basis of what data that price is determined.

The Commission is aware that in Serbia, there are "Business associations of road transport", which are voluntary, non-governmental and independent business associations in the road transport. One might reasonably say that in some segments of operations of these market participants associations have a very significant impact. These associations, among other things, are actively dealing with the price of services which are provided by their members. One of the results of many analyzes is the "Structure of operating costs in the long-distance passenger road transport." After reviewing the "structure " of one of the business associations, the Commission determined that, among a number of items, there are some significant ones, which certainly should not be in that structure and which greatly affect the final result, meaning that it is greater than it would be if the rules of the "real cost" calculation were respected.

If for the applicant of the underlined request, these calculations had the importance of "cost of the public transportation of the passengers" on the basis of which it proposes a "lowest cost" to the Government of the Republic of Serbia, it would open some possible issues from the point of application of the rules of protection of competition, and the most important would be the following: on the basis of which data the "cost price" is determine, whose data are used to create structures, which items are included in the structure and whether their inclusion is justified, and last but not less important, the question who determined the "cost price".

The last question is very important because it is a matter of "cost price" which is the starting point for determining the "lowest price".

The answer to the last question is completely obvious - basically they are transporters in the form of their business association.
Almost exactly the same as in the case of candidates for training drivers and intercity transportation, the Commission does not recognize any legitimate reasons for prescribing any service fees by the Government of the Republic of Serbia.

Finally, the Commission’s opinion is that the provisions of both laws to which the underlined request relate to, in the long term, certainly harm competition in the market for the provision of these services.

The previous assessment is without prejudice to the fact, under certain conditions; these short-term measures of the Government may give ostensible positive results.

The Commission’s opinion is that the cited provisions of both laws should be changed as soon as possible, or completely removed from the text of both laws.

**The draft of the Law on Public Procurement**

This is one of the few examples where a draft law was duly submitted to the Commission for an opinion, that is, in the phase of being drafted. It is also very important as some of the suggestions of the Commission were taken into account and translated into legal text, and hereafter we look back on those comments and suggestions that, although significant, were not taken into account.

In the Commission's opinion on the draft law, among other things, the Commission's stance in terms of increasing the number of administrative measures determined in relation to violation of competition in public procurement procedures was particularly emphasized. The proposed solution that the organizations responsible for the protection of competition, may impose a measure prohibiting the participation in the procurement process to the bidder or interested party, if it determines that the bidder or interested party violated competition in the procurement process in terms of the law governing the protection of competition, and that this measure can last up to two years, which unfortunately is left in the text of the Law that came into force (effective from April 01, 2013), is the additional administrative measure which on the basis of Commission’s assessment may have contradictory effects on the market. Namely, the Commission’s opinion is that this provision should be deleted, since the Law on Protection of Competition sufficiently sanctioned competition violations, or that the existing prescribed measures have a strong enough effect to deter from violations of competition, and doing harm to competition.

Measures (omission) stipulated by the Law on Public Procurement, could contribute to deter market participants from committing violations of competition within the meaning of Article 10 and 16 of the Law on Protection of Competition. On the other hand, the Commission indicated that it should be borne in mind that the degree of concentration of supply in the market of the Republic of Serbia remains high, particularly in those areas where the authorities appear as the only customers (defense, electricity etc.), so by reducing the number of participants in the procurement process, the effectiveness of the procedure may be influenced, that is, it may be reduced. An additional factor that should be taken into account, is that the proposed centralization of the public procurement system, which will reduce the number of potential participants, may
further increase the risk of distortion of competition, since a decrease in the number of participants in the market, the transparency and predictability of the procurement process, favors the development of agreements between the bidders.

*The draft of Law on Transportation of Goods by Road*

From the point of application of the Law on Protection of Competition, the following provision is inadmissible: "The government determines the minimum amount of the cost of cargo transportation by road per tonne kilometer in public cargo transport and the deadlines for fares payment proposed by the Ministry responsible for trade and with the approval of the professional association of transporters". The main objective of the competition, as specified in Article 1 of the Law is economic development and the welfare of society and especially consumer benefits. In accordance with such a defined objective, the Law prohibits all acts and actions that aim or effect have or may have a significant restriction, prevention or distortion of competition. The provisions of Article 10 Paragraph 2 point 1 of the Law is defined as a restrictive agreement which directly or indirectly defines purchase or selling prices or other trading conditions.

Determining the amount of the lowest costs of cargo transportation in road transportation would have resulted in the elimination of price competition, which in turn would harm consumers (users of services), given that they were denied a choice of products, and the possibility that depending on the amount of price choose the seller, in this particular case the transporter. Encouraging transporters to compete" through the price of the service in gaining customers, buyers of their service they provide, market participants are encouraged to improve service quality, reduce costs, and according to this situation, new participants interested in entering the market are attracted, all of which are ultimately a benefit to consumers.

Explanations which was delivered with the draft of the law did not contain any allegation that would refer to the reasons for such a formulated provision. Attempt to regulate the markets and the relationship between the participants in this market and where there are already certain entry barriers (licenses and permits), may contribute only to protection of competitors, but certainly not a competition and consumer benefits.

*The draft of the Law on Misdemeanors*

The proposed text of Article 35 ("Fine"), in an area of importance for the Protection of Competition states: "Notwithstanding the provisions of Paragraphs 1-3 of this Article of the Law may provide special ranges of penalties for the following offenses: - in proportion to the level of harm or outstanding liabilities, the value of goods or other item that is subject to a violation, but not exceeding twenty times the stated value - for offenses relating to public revenue, public media, customs, foreign trade and foreign exchange, environmental protection, trade in goods and services and securities trade - in the amount up to 10% in relation to the revenue earned by a responsible person of the legal entity or entrepreneur achieved in financial year preceding the
year in which the offense is committed- misdemeanor of the prevention, restriction or distortion of competition."

Commission has indicated that it is obvious that an omission was made during drafting of the stated law and called attention to the Ministry of Justice as the competent Ministry, that the Law on Protection of Competition ("Official Gazette of RS", No. 51/09) found that the imposition of a measure of competition for violations committed by the market participants is in the exclusive competence of the Commission and in accordance with this fact, which is, after all concluded in the judgments of magistrates' courts, it is clear that these actions are no longer misdemeanor, but violations of competition on which, as noted above, the Commission for Protection of competition will decide.

*Draft of the Law on Amendments of the Law on Trade*

Commission for the first time had its representative in the Working Group for drafting the technical basis for the amendments of the Law on Trade ("Official Gazette" No. 53/10). This Law is of great importance from the point of application of Law on Protection of Competition whose ultimate goal is economic development, and in particular the benefit of consumers. A significant innovation from the current Law, are provisions relating to judicial protection and right of the injured trader to initiate a lawsuit for unfair competition (disloyal competition). This procedure and the court's decision should not be linked to any proceedings against market participants who have committed violations of competition and to the decisions of the Commission which determined the violation and determined the measures for protection of competition.

Proposed legislation in certain segments simplifies certain rules relating to the business of merchants, but it also specifies certain forms of trade, such as personal offering trade. Clarification of the specific commitments of traders, could contribute to greater security to retailers and consumers.

According to the Commission assessment, the provisions of this Law, such as those relating to the monitoring of trade and turnover through the analysis of the trade data, market and data exchange, that is, the submission of certain information to ministry, in order to initiate and monitor the effects of economic policies on the market and measures to improve trade and commerce, could be of importance for the work of the Commission. The Commission often faces the problem of acquiring of quality and relevant data, so in this way the collected data, and bearing in mind that the Law on Protection of Competition provides the obligation of public authorities to cooperate with the Commission, may also contribute to more effective treatment of the Commission. It is important that the information delivered to the ministry by the side of the authorities, have the status of confidential information within the meaning of the regulations governing the confidentiality of information.
Decision of the Government of the Republic of Serbia on the determination of the lowest price of theoretical and practical training of candidates for the drivers and the lowest price for driving test

The Commission has acted in terms of the stated decision, which was published in the "Official Gazette of RS" no. 105 of 02.11.2012. (Decision entered into force on the day following its publication in the sense that it pointed out that from the point of application of the Law, this decision is contrary not only to the Law, but to the basic principles of a free market economy, because determining the lowest price may result in elimination of price competition, which in turn harms consumers (users of services), as they are denied the choice of products, and the possibility that, depending on the amount of the price of the chose the seller, in this case, organizations registered for this service.

8.3. Opinions on the Implementation of the Law on Protection of Competition

8.3.1 Interpretation of the provisions on restrictive agreements

Discounts for provided taxi services

Entity that specializes in providing taxi services, Eko Prevoz d.o.o. Zrenjanin has requested an opinion on the application of the competition rules in the case of a rebate to customers of taxi services.

The Commission issued an opinion in which it stated that the provisions of Article 23 Paragraph 5 of the Law on Road transportation ("Official Gazette of RS", no. 31/11) stipulates that the price of services in urban and suburban public transport and taxi services is determined by a special act brought by the municipality and the City of Belgrade. Pursuant to Article 35 Paragraph 1 and 2 of the Law on Road Transport, it is stipulated that the taxi operator shall at the commencement of transportation, turn on the meter or take a certificate of a fixed price from the standpoint of particular interest to the municipality, city, or the City of Belgrade. Taxi operator for provided services charges transport fare in the amount sown on the meter at the time of completion of service or the price from certificate issued from the locations specified in Paragraph 1 of this Article.

The provisions of Article 35 of the Law on Road Transport represent an innovation that is entered in the Law on Amending the Law on Road Traffic ("Official Gazette" no. 31/2011) precisely in order to prevent the taxi operators to apply the business policies that grant discounts if ordering the taxi services by phone.

In Commission’s opinion, it was stated that the Commission gave an opinion on the provisions of the Law on Road Transportation of Passengers in terms of the price of the taxi services stating that, in this way, the price competition is completely turned off, which from the point of aim of
Law on Protection of Competition cannot be justified. The Commission recommended amendment of provisions in terms of determining the maximum cost in order to secure the price competition among the taxi operators, who could adjust their business to their own needs, by which consumers would benefit. Maximum price a taxi transport would in particular benefit smaller taxi companies, which could with the slightly lower price than the maximum price, compete with bigger taxi companies, which are more available due to the number of accessible vehicles.

Promotional campaigns and recommended promotional prices

In the request for an opinion it was stated that the foreign manufacturer of consumer goods which sell their products on the territory of the Republic of Serbia through its distributor, plans to launch a short-term promotional campaigns for specific products. In this sense, the manufacturer would recommend to its distributor to propose to retailers that the price, at which they sale their products, is not higher than the maximum recommended promotional prices. If a retailer sells a product at a higher price and accept participation in the said campaign, the price difference will be refunded to it. Promotional offer, according to the application, does not affect the orderly sale of products and retailers are free to accept the offer, without any consequences.

In the request, as the most important elements of the campaign the following facts are highlighted: the fee is paid only if the retailer lowers the price at or below the amount of the maximum recommended price (which amounts will be different for different retailers); that all retailers, who are competitors in the same product category, receive similar offers with similar percentages; that retailers are reimbursed with a fixed amount per unit, in terms of the type of sale and that the compensation is performed at the end of the promotional period.

The request states that the action is carried out on a voluntary basis, the duration is short and consumers would benefit from lower retail prices. Manufacturer and distributor of promotional products choose promotional products in order not to have any potential negative effects on intra-brand competition, and the retail price and the retailer's margin would be at their discretion.

Based on available data, the Commission issued an opinion according to which, in case of agreements that determine the recommended or maximum retail price, which is subject to promotional campaigns, such agreements may be excluded in accordance with the provisions of the Law and Regulation, provided that in such way the determination of fixed or minimum selling prices by coercion, by operation conditioning or providing benefits is not possible. Also, in order for agreements to be exempt from the prohibition it is necessary that the market share of each participant in the agreement on the relevant market does not exceed 25%.

Determining the recommended or the maximum retail price can have both positive and negative effects on competition in the relevant market and assessment of the admissibility of such provisions depends on the relationship of these effects. Positive effects are reflected in the fact that such determination of retail prices may lead to better promotion of products, its entry in the
relevant market, distribution improvement, and improvement of the quality of sales service and the benefits for consumers. On the other hand, the negative effects are reflected in the fact that such determined price can become a "focal point" or "target " price for retailers which would, by recognizing it as a "preferred price" of the manufacturer / supplier, respected (applied) by all, and which may lead, as an ultimate effect, to weakening of the competition and harmonization of business between manufacturers. Also, the larger the market share of the manufacturer is, the greater the likelihood that adverse effects will occur. For the assessment, the period of the promotional campaign is of crucial matter, considering that described the campaign may result in a negative impact on intra- brand competition.

In terms of the above mentioned, the applicant was addressed to, in accordance with the Law and Regulation, and taking into account not only the allegations in the underlined thought, but all the details and circumstances known to it, assess on its own whether the conditions for the exemption of Agreement on Distribution (exclusive distribution) by category of agreements pursuant to Article 13 Law are fulfilled, as well as all the circumstances under which the subject conducted promotional campaigns. If it finds that any of the conditions is not met, and that it is not an agreement of minor importance in terms of the provisions of Article 14 of the Law, it would be necessary to apply for individual exemption from the prohibition under the Regulation on the contents of the request for individual exemption from the prohibition of restrictive agreements ("RS Official Gazette " no. 107/2009).

Commission Contract - restrictive provisions and the "genuine agency"

The Commission was asked several questions regarding the conclusion of Commission Contract, regarding the restrictive provisions in that agreement, the Commission's stance on the possible implementation of EU legislation, particularly regulations relating to the "Agency Agreements", and on this occasion the Commission fully agrees that during the assessment of particular contract EU legislation relating to the "Agency agreements " would be taken into account. In this sense, below text refers to the so-called Agency Agreements" (genuine agency). Determining factor in defining the agency agreement, and in application of Article 10 Law on Protection of Competition ( hereinafter referred to as the Law), a financial or commercial risk borne by the agent in respect of the activities which are authorized by the principal. In this sense, the subject of evaluation is not to establish whether an agent acts for one or more of the principal, nor the subject of evaluation are qualifications that are given to the agreement by participants in that agreement or national legislation.

There are three types of financial or commercial risk that represent the elements of the definition of the Agency agreement, in accordance with the application of Article 10 of the Law. They are: the risks specific to the contract - an agreement (contract - specific risks); risks related to investment for specific for a particular market (market - specific investments); risks related with other activities undertaken in the same relevant market of products (goods or services).
The agreement will be qualified as an Agency agreement if the agent does not bear, or bears only insignificant, risks associated with: the concluded and / or negotiated contracts on behalf of the principal; investment specific for a particular market and the range of activities in stated field and other activities whose undertaking is required by the principal in the same relevant product market. Risks relating to the activities of providing agency services in general are not subject to this assessment. In terms of application of Article 10 of the Law, this Agreement shall be treated as an agreement of the agencies in cases where the ownership of the purchased or sold goods is not acquired by an agent or when the agent alone does not provide the contracted services, while agent: does not participate in the costs associated with the purchase/selling of contract goods or services, including transportation costs; does not create and maintain at its own expense warehouse supplies of contract goods; assumes no liability to third parties for damages caused by the sold products, unless the agent is responsible for its own failures in this regard; assumes no responsibility for failure to execute the contract by customer, unless the agent is responsible for its own failures in this regard; is not directly or indirectly obligated to invest in sales promotion; has no market - specific investments in equipment, premises or training of staff; does not undertake other activities in the same relevant product market at the request of principal, unless the activities are fully reimbursed by the principal.

Previously enumerated is not in order, but in any case if the agent bears risk or responsibility for any of the above risks or costs, such an agreement could not be regarded as an Agency Agreement in terms of application of Article 10 of the Law.

In the case of cumulative fulfillment of all the conditions listed above, the activity of an agent (sales and purchase) would consist of the same principal activities.

It is important to note the following: given that the Agency Agreement defines the relations between the agent and the principal, the agreement itself, though it may have been represented as an agreement on "genuine agency", could be covered with the application of Article 10 if the provisions governing the relationship are unacceptable from the point of application of the Law, or represent the violation of competition for themselves.

8.3.2. Interpretation of the provisions on abuse of dominant position

*Opinion concerning the analysis of market, wholesale broadband market access (market 5) and the retail market distribution of media content (market 8)*

At the request of the Electronic Communications Agency for an opinion regarding the analysis of the market - the wholesale broadband market access (market 5) and the retail market distribution of media content (market 8), an application is set forth that the Commission issues an opinion on whether the Reports on analyzing the relevant market, as well as regulatory requirements that are
defined as operators with significant market power in the relevant markets, are in accordance with the rules governing the protection of competition.

The Commission issued an opinion that the principles that are applied in the analysis of the markets concerned, are essentially the principles that are applied in the field of competition, and the differences in approaches and conclusions may stem from differences in the legal framework applicable to the electronic communications, that is, in the area of competition. For this reason there is a possibility that the Commission for each procedure defines relevant markets in a different way, and in such a way that the definitions do not necessarily coincide in all with the definitions adopted by the Agency for the purpose of the subject Analysis, both in terms of the relevant product market, and in terms of the relevant geographic market, depending on the circumstances of each case. Regarding regulatory obligations, the Commission has concluded that they are determined in accordance with Article 63 of The Law on Electronic Communications, and the Commission, in accordance with Article 59 of the Law on Protection of Competition, has the ability to, when establishing the violation of competition by decision, determine measures which represent behavioral measures aimed at eliminating the violations and preventing opportunities for the development of the same or similar violations. However, in contrast to the Law on Electronic Communications, the Law on Protection of Competition does not specifically address behavioral measures that the Commission may determine, but they depend on the circumstances of each case.

Ministry of Internal affairs, Police Department in Subotica, Bačka Topola PS

Criminal charges against the responsible persons of "Rodgas" AD from Bačka Topola was filed to the Basic Public Prosecutor's Office in Subotica, because of suspicion that it committed criminal offense of abuse of monopoly position under Article 232 Paragraph 1 of the Criminal Code. "Rodgas" AD from Bačka Topola, is the sole distributor of gas in the Bačka Topola and has concluded an Agreement on Custody of the Activity of General Interest with the Ministry of Mining and Energy. For many years it send calls to only some entities for bids and selection of a contractor for works of internal gas installations, where for all customers prices of basic materials for the execution of internal gas installations were predetermined and were usually the same for selected bidders. Also, the design documentation of internal gas installation for all customers, that is, the investors, were done by one designer, by the order of "Rodgas" AD. Described method of selection of the designer and contractor by the company "Rodgas" AD, as well as "price fixing" of contracted equipment, allegedly on behalf of investors, a dominant position in the gas distribution is used in order to impose certain designers and contractors on the internal gas installation and benefits for only selected contractors were provided. In relation to previously mentioned, it stated that the OSJ Subotica has sent a request to Bačka Topola PS to collect the necessary information, in which among other things it is sought that PS Bačka Topola obtains the opinion of the Commission on the following circumstances:

Ministry of Internal affairs, Police Department in Subotica, Bačka Topola PS

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whether the company " Rodgas " AD during the period covered by the criminal charges had a dominant or monopolistic position in the market due to the area in which it carried out its activities of common interest under a contract with NIS for the delivery of natural gas,

to which activity or service would the monopoly, that is, the dominant position refer to,

whether the contracts on business and technical cooperation with one of the contractors have the character of a monopolistic agreement, given the fact that that identical contract was signed with another company and whether the conclusion of these contracts, which in terms of conditions were same for both undertakings, caused market disruption,

whether to any entity, the consumer or service, harm was caused and in what amount, in a situation where a contractor is imposed to the investor - the customer of the service, and the price for the works for the works on gas installations, and that the investor - the customer of the service could legally and independently choose the designer and contractor.

After analysis of the available documentation, the Commission has submitted a Notification that it can give an explicit answer on the asked questions only after ascertaining the facts, and the Commission acts in that manner in the administrative proceedings initiated ex officio when based on the proposals, information and other available information, reasonably assumes a violation of the competition. The Commission could treat PS Bačka Topola Brief as provision of information, however, on the basis of the allegations set out in the brief the Commission cannot reasonably assume a violation of the competition, as well as on the type of violation. Therefore, the Commission invited PS Bačka Topola to provide all information and documents possessed in this case, in order to be able to perform its analysis and evaluation in terms of the requirements for initiation of ex officio proceedings. In addition, the question relating to any damage and its extent and who have suffered it, is not a matter for which resolution the Commission is authorized. In its actions, which determine the existence and violation of competition, the Commission solely determines the effects induced on the market, but not the damage and its extent, because the Law itself provides that the decision of the Commission on the violation of competition does not assume that the damage occurred, but the same is to be proved in court.

8.3.3. Interpretation of the provisions of the concentration

*Does acquiring of business activity of monitoring / call center of a company represents concentration within the meaning of Article 17 of the Law on Protection of Competition?*

According to the statements delivered to the Commission, in the stated case, business activity of monitoring / call center of an entity is taken, by acquiring the Lease Contract, employees who are trained for this type of business activity and three service contracts from a business activity of
monitoring / call center. In this way, the acquirer of monitoring/call center will take control over the operations of monitoring/ call center which is in competence of its current owner, resulting in a concentration from Article 17 of the Law on Protection of Competition.

The fact that the transaction is not related to acquiring of fixed assets or the shares in the company that provides monitoring/call center, does not affect the formation of concentration, since the acquiring of fixed assets to perform specific activities (over the lease), creates a control over the same in the sense of Article 17 of the Law on Protection of Competition.

If the conditions of Article 61 of the Law on Protection of Competition are completed, acquirer of control is required to submit an application of concentration within 15 days of the conclusion of the agreement or contract, or acquisition of control.

Is there an obligation to notify the concentration that is implemented through submitting bid for acquisition, in terms of the regulations governing the acquiring of joint stock companies regardless of whether the relevant target company is public or non-public joint stock company?

Reason for the submission of the stated request to issue an opinion is the fact that in the area that regulates joint stock companies, new laws are adopted - The Law on Entities ("Off. Gazette of RS", no. 36/2011, 99/2011) and the Law on Capital Market ("Off. Gazette of RS", no. 31/2011). Also, the Law on Acquisition of Joint Stock Companies is changed and amended ("Off. Gazette of RS", no. 46/2006, 107/2009, 99/2011). These legal changes, among other things, abolish the division on the open and closed joint stock companies and introduce a new division of the public and non-public joint stock companies, which occurs during the period of continuous harmonization with EU regulations, because the regulations of the European Union know the classification of the companies whose shares are traded (public) or not traded (non-public) in the regulated market.

According to the earlier legal decisions, submitting bids for acquisition only existed when it comes to acquisition of an open joint stock companies, and the applicant of the requests for issuing opinions expressed the following dilemma: "Whether Article 61 Paragraph 3 of the Law on Protection of Competition may be interpreted as it includes the obligation to submit concentration application in all cases when there is a matter of an acquisition bid (when by acquisition bid, a control over the company may be acquired), or does the Article 61, Paragraph 3 of the Law on Protection of Competition implies obligation to submit application only if it is the matter of acquisition of public joint stock company?"

Article 2, Paragraph 1, Item 1 of the new, amended Law on Acquisition of Joint Stock Companies gives the following definition: "Target Company is a joint stock company in terms of the law that regulates companies and that completes at least one of the following conditions:

(1) Whose shares are traded on a regulated market or multilateral trading platform (hereinafter referred to as MTP) in the Republic in terms of the law governing the capital market?;
(2) Which has more than 100 shareholders of each of the last day of the three consecutive months, and the total capital of at least 3,000,000 euros in RSD?"

The above stated (under (2)) shows that the new legislation provides the obligation of submitting the acquisition bid and, in certain cases, when the target company is non-public joint stock company.

Article 61 Paragraph 3 of the Law on Protection of Competition stipulates the following: "The concentration that is carried out via an acquisition bid in terms of regulations governing the acquiring of joint stock companies must be reported and when there are no conditions under Paragraph 1 of this Article."

According to stated, the Law on Protection of Competition binds the obligation of notifying the concentration for the existence of the acquisition bid. According to that, the Law on Protection of Competition, in the text cited provision, does not define form of a joint stock company closer to which the concerned Article relates, but only states that when there is the acquisition bid, there is also the obligation to notify.

Such legal regulation exists because the legislator has entrusted the Commission for Protection of Competition for testing concentration in cases where it the acquisition bid is issued directly to all shareholders of the target company. On the other hand the legislator has left to regulations which "regulate the acquiring of joint stock companies", i.e. the Law on Acquisition of Joint Stock Companies to closer determine when will such a bid be issued and in relation to whom.

Overall, the new legislative changes, primarily changes of the Law on Acquisition of Joint Stock Companies, are not directly affecting the mode of application of Article 61 Paragraph 3 of the Law on Protection of Competition, as the application of this article remains the same as before these changes: always when there is an acquisition bid in accordance with the Law on Acquisition of Joint Stock Companies, there will be an obligation to notify the Commission for Protection of Competition. Also, this obligation will exist when the acquisition bid is related to the non-public joint stock companies.

8.4. Opinion under Article 157 of the Law on Bankruptcy

Provisions of the Law on Bankruptcy ("Official Gazette of RS", no. 104/2009) stipulate the there is an obligation of obtaining the opinion of the Commission for Protection of Competition, in the following:

- In the process of selling the debtor’s whole property (Article 132, Paragraph 10)
- In the process of selling the debtor as a legal entity (Article 135, Paragraph 3) and
- In the process of implementation of measures envisaged by the Plan of reorganization of the debtor (Article 157, Paragraph 3).
Starting from the above stated statutory authority, the Commission in formulating its opinion on the submitted plans in bankruptcy proceedings, primarily evaluates whether the proposed activities and measures cause the change of control of the debtor, which represent concentration in terms of the provisions of the Law on Protection of Competition. In this sense, if the sale of assets, or the whole property of the debtor, or the implementation of reorganization measures, such as the conversion of creditors' claims in the capital of the company, can lead to changes in control of the debtor, the Commission’s opinion warns about the obligation of assessment of the requirements for notification of concentration. Besides issued opinions to applicants of reorganization plan, the Commission also had correspondence with the bankruptcy courts and the bankruptcy administrators regarding certain items.

In 2012, the Commission issued opinions on applications for the following bankruptcy debtors:

- “Mašinoteks d.o.o.” from Leskovac
- “Yolly travel d.o.o.” from Belgrade
- “Zenit specijalna bolnica za bolesti oka” from Belgrade
- “Popeh d.o.o.” from Brus
- “Marina a.d.” from Bačka Palanka
- “Laki line d.o.o.” from Čačak
- “Inženjering promet” d.o.o. from Ub
- “Ultra d.o.o.” from Belgrade
- “Autorsrbija d.o.o.” from Belgrade
- “Yu trade d.o.o.” from Belgrade
- “Tumbas d.o.o.” from Mali Iđoš
- “Pantomarket-Stočar d.o.o.” from Čačak
- “PD Concrete a.d.” from Požarevac
- “Jugo Hem d.o.o.” from Leskovac
- “Ljutovo a.d.” from Ljutovo
- “Alfa plast d.o.o”. from Kragujevac
- “Marni d.o.o.” from Kruševac
- “Central a.d.” from Zemun
- “Vapa GPP d.o.o.” from Belgrade
- “Šumadija a.d.” from Mladenovac
- “Sloga a.d.” from Perlez
- “Zdravko ATM d.o.o.” from Belgrade -Surčin
- “Univerzal TPM d.o.o.” from Belgrade
- “AD Banat-industrija mesa” from Banatski Karlovac
- “Agrostroj a.d.” from Čačak
- “IGM Trudbenik a.d.” from Belgrade
- “Nives d.o.o.” from Niš
- “Atlas Elektroniks d.o.o.” from Surdulica
- “Park invest jug d.o.o.” from Belgrade
- “Jeep Commerce d.o.o.” from Belgrade
- “PP Farma pilića d.o.o.” from Žitište
- “Beoplan a.d.” from Belgrade
- “Koling a.d.” from Belgrade
- “Azotara d.o.o” from Subotica
- “Alpos d.o.o.” from Aleksinac
- “LBB Frigo d.o.o.” from Apatin
- “ADGD Mladost” from Ćuprija
- “Imago” from Belgrade
- “Yus trade & Consult d.o.o.” from Kraljevo
- “Graditelj a.d.” from Kikinda
- “A + d.o.o.” from Šabac
- “Centar d.o.o.” from Plandište
- “Žitohem d.o.o.” from Zrenjanin
- “Maki d.o.o.” from Trgočevac-Lebane
- “Transpetrol d.o.o.” iz Sećnja
- “Peđa Commerce d.o.o.” from Subotica
- “Azohem d.o.o.” from Subotica
- “AD Sokograd” from Soko Banja
- “Panonka a.d.” from Sombor
- “AD Elid” from Niš
- “Euro Company d.o.o.” from Brzeć-Brus
- “KK Crvena Zvezda” from Belgrade
- “GP Dom a.d.” from Belgrade
- “Župljanka a.d.” from Aleksandrovac
- “Omladinska zadruga TS” from Ivanjica
- “Ideal Company d.o.o.” from Niša
- “ZZ Podunavlje” from Futog
- “Zastava promet-Arena motors d.o.o.” from Kragujevac
- “Poljostroj a.d.” from Odžaci
- “Meditrade Commerce d.o.o.” from Kraljevo
- “Industrija mesa Banatski Karlovac d.o.o.” from Banatski Karlovc
- “Marko eksport d.o.o.” from Paraćin
- “Rama d.o.o.” from Valjevo
- “Agrobanat a.d.” from Plandište
- “Agroeksport Toplica a.d.” from Doljevac
- “Produkt Šopalović d.o.o.” from Užice
- “Armih d.o.o.” from Ivanjica
- “Aroma a.d.” from Futog
- “Hidropromet inžinjering d.o.o.” from Belgrade
- “Duga sistem d.o.o.” from Belgrade
- “RGP Inpos a.d.” from Knjaževac
- “Irva Transport d.o.o.” from Stari leca-Plandište
- “Telefonija a.d.” from Belgrade
- “Tibro d.o.o.” from Belgrade
- “Riboprodukt d.o.o.” from Požega
- “Cini d.o.o.” from Čačak
- “Carcom group d.o.o.” from Lazarevac
- “IGM Bačka opeka d.o.o.” from Subotica
- “Seme d.o.o.” from Čačak
- “TTS Promet d.o.o.” from Ivanjica
- “Mag Đorđević d.o.o.” from Vrnjačka Banja
- “Interkomerc SA d.o.o.” from Kraljevo
- “Sportturist d.o.o.” from Novi Pazar
- “Medoprodukt d.o.o.” from Tavankut
- “Ostrog specijalna bolnica” from Belgrade
- “Fidelinka nekretnine d.o.o.” from Subotica
- “Beotel Net Isp d.o.o.” from Belgrade
- “Oblaĉinsko jezero d.o.o.” from Merošina
- “ABC Food d.o.o.” from Srpski Krstur
- “Intema d.o.o.” from Krasava-Krupanj
- “Južna Morava a.d.” from Vladićin Han
- “Fidelinka-Mlinarstvo d.o.o.” from Subotica
- “Motins motorna industrija a.d.” from Novi Sad
- “Zimpa a.d.” from Ub
- “Magma eksport import a.d.” from Novi Sad
- “Neimar a.d.” from Novi Sad
- “Katves d.o.o.” from Kragujevac
- “Kompas Kragujevac” d.o.o. from Kragujevac
- “Vulić & Vulić d.o.o.” from Niš
- “Riveks d.o.o.” from Kragujevac
- “Agroprogres trade a.d.” from Belgrade
- “Unihemkom d.o.o.” from Novi Sad
- “Dane d.o.o.” from Smederevska Palanka
- “Braća Radenković d.o.o.” from Petrovac na Mlavi
- “Sokokomerc d.o.o.” from Sokobanja
- “Seme produkt d.o.o” from Čačak
- “Aneks d.o.o.” from Belgrade
- “Forum Vizija a.d.” from Belgrade
- “Erc Commerce Computers d.o.o.” from Belgrade
- “Pionir Invest d.o.o.” from Belgrade
- “DB Konstrukt d.o.o.” from Belgrade
- “Komgrap IGM Obrenovac d.o.o.” from Obrenovac
- “Đure d.o.o.” from Blace
- “PZP Vranje a.d.” from Vranje
- “Mermotehn d.o.o.” from Zrenjanin
- “VG Optima d.o.o.” from Belgrade
- “Euroglobal d.o.o.” from Melenci
- “Sigrad Inžinjering d.o.o. from Belgrade
- “Dok d.o.o.” from Obrenovac
- “Jedinstvo a.d.” from Gajdobra
- “Velefarm a.d.” from Belgrade
- “Vekom d.o.o.” from Bezdan
- “Elektrosrbija a.d.” from Belgrade
- “Jugovo Company d.o.o.” from Smederevo
- “Autokuća Kompresor a.d.” from Belgrade
9. SECTOR ANALYSES

In accordance with its legal authority, in order to identify potential violations of competition or other conditions that have a negative impact on competition in 2012, the Commission completed two sector analysis including: The Market Analysis of the Wholesale and Retail of Petroleum Products in 2011 and The Analysis of Competition in the Sector of Production and Processing of Milk and Dairy Products.

Complete reports of the sector analysis, the conclusions and adopted recommendations, are published on the website of the Commission (www.kzk.gov.rs) in the part "Sector Analysis".

Because of the importance of the oil sector in the energy business and the economy as a whole, the impact of price movements of these commodities on all economic processes in the country and on the structure of the observed market, the analysis of competition in the market of wholesale and retail petroleum products in the Republic of Serbia for 2012 will be continued in next year as well. In addition to the above, the Commission decided to proceed with the implementation of market analysis of raw milk and the production of milk and dairy products in 2011 and 2012, because of the importance of raw milk and its processing in milk and dairy products as well as the structure of individual markets in the production and processing cycle.

9.1. Sectoral analysis of the market of wholesale and retail of petroleum products in 2011


Sector analysis showed that the effects of price liberalization and liberalization of import of petroleum products, are partially reversed by simultaneous entry into force of the amendments to the Law on Amending of Excise, which introduced the so-called "Dual" Excise and Regulations on technical and other requirements for liquid fuels originated from oil, by which the import liberalization is limited only to fuels that meet European quality standards. The Commission
reacted to both of the regulations and sent a request to the authorities for their review and editing. Excise tax for all motor fuels, on one hand and for all diesel fuels, on the other hand (June 2011) are uniformed due to this changes of regulations and importing of liquid fuels of petroleum origin is liberalized (September 2011).

The Commission, during the sector analysis, concluded that the structure of the supply is originally determined by the possibility to import certain types of petroleum products and their availability in the domestic market, then by their price. Liberalization of import of motor fuel led to a drastic increase in import of fuel euro premium BMB95 and Euro BMB98, but the concentration of import in all observed products are still at a very high level. Along with the trend of conversion of "dirty" fuels and the increasing consumption of motor fuel BMB95 premium, premium BMB95 euro and euro BMB98, their share in total sales grew within all market participants. On the other hand, turover of diesel fuel D2 was reduced within all market participants, both in absolute and relative terms compared to other products, as a result of a reorientation in the consumption to euro diesel, while the fuel MB95 is practically withdrawn from the market.

In the market of the Republic of Serbia NIS is the only producer of oil products and one of the most important supply sources of market participants in wholesale trade, and retail trade of derivatives. NIS individually realized the biggest wholesale and retail of all kinds of petroleum products, while in the wholesale market two types of fuel - premium BMB95 and D2, NIS has a dominant position.

During 2011, the market participants formed their price policy according to criteria of location of retail objects, so the retail prices on the highway gas station, during the year, were higher than retail prices at city gas stations on average of 1.00 to 3.00 RSD. Although the retail prices of petroleum products between market participants are relatively uniform, a slightly more intense competition in pricing compared to the previous three-year period is demonstrated.

The problems encountered by the Commission during the process of collecting and evaluating usability of data led to the conclusion that continuous monitoring of this sector requires a statistical data base of oil and petroleum products in all stages of the production and transport cycle. In this sense, there is a recommendation to the Government of the Republic of Serbia to, through the competent public authorities, provide regular collection and monitoring of aggregate data on wholesale and retail of petroleum products, in total, by type of products as well as by individual businesses, in order to accurately determine the market shares of market participants and their real market power.
9.2. Analysis of the conditions of competition in the sector of production and processing of milk and milk products

The sectoral analysis of competition in the dairy sector, which began in 2010, included the production-processing cycle or purchase of the raw cow's milk, and production and processing of milk and dairy products. The reason for this Decision on the implementation of the sectoral analysis in this branch of manufacturing industry was shortage of short - lasting (pasteurized) and long – lasting milk in the retail market during the summer months of 2010. The analysis covers the period of seven months (June-December) through a comparison of the data for the 2009 and 2010. The Commission has collected data from the largest participants in the concerned market concerned: IMLEK Beograd – Padinska Skela, Mlekara Subotica, Mlekanar Šabac, Somboled d.o.o. as well as the dairies with a significant participation in regional markets: Milkop Raška, Niška Mlekanar, Lazar Blace, Granice Mladenovac, Kuč Company Kragujevac, Ekomek Kaonik, Mlekara Loznica, Mlekara Plana from Velika Plana, Mlekoprodukt Zrenjanin, Kikindka industrija mleka and Mladost from Kragujevac later Meggle d.o.o. Kragujevac.

In addition to these market participants the Commission has collected and aggregated data on the total amount of "milked" cow's milk, purchased quantities of raw cow's milk intended for further industrial processing and production of milk and dairy products in the recording period in the Republic of Serbia, which are provided by the Statistical Office of the Republic of Serbia (SORS) and Chamber of Commerce and Industry of Serbia (CCIS) - Association for Agriculture, Food Industry, Tobacco Industry and Water Industry.

Conducted sectoral analysis shows that the market of raw milk is characterized by an extremely fragmented and disorganized production, which results in supply of raw milk by large number of small individual producers. On the other hand, on the side of demand for this raw material, there is a highly concentrated market of milk processors. Informal milk market, which includes milk spent in the so-called "other purposes", has a high proportion of the overall market of milked, raw milk in Serbia and therefore represents an aggravating circumstance during the control of safety and quality of raw milk.

Policy of premiums paid to primary producers of raw milk, during the analyzed period, has been subject of frequent and significant changes. As a result, there is a reduction in the number of cows, and milk supply which the primary producers were willing to offer to the market of raw milk intended for further industrial processing.

Of particular importance was the analysis of the structure of product assortment of all 15 dairies included in the sample. The main objective of this part of the analysis was to determine how a total of purchased raw milk was spent, or what part of it was spent for the production of the milk and what part of the production of other dairy products. Based on the analysis, the conclusion is
that, at the relevant time, there were no any significant changes in the structure of the product assortment of the analyzed dairies, observed collectively.

During the preparation of sectoral analysis, a number of problems in evaluating and comparing the obtained data encountered. In this sense, there is a recommendation to form a comprehensive and updated database, which currently does not exist. The first stage of data collection and processing is only in the process of purchased quantities of raw milk by dairies, while the overall difference in milked cow’s milk and milk purchased for further industrial processing is treated as the milk spent in the so-called "informal" market which is inexplicably high and without any possibility of control. We also believe that the establishment of national laboratories for milk control, among other things, can provide to Official Statistics and other government agencies accurate and quality information that are significant to all aspects of monitoring, directing the development and eliminating of irregularity in the development of the dairy sector, which is related to all the participants in this market.
10. TRANSPARENCY IN WORK

During the previous year, the Commission continued its work in the area of public presentation of its work, which was successfully established in 2011, through the Information Booklet and web presentation, complied with the guidelines of the Government Resolution No. 05: 030-96880/2010 from December 23 2010.

During the 2012, the volume of documents that are published on the Commission’s website was significantly increased. In addition to Press releases and important decisions, almost all of documents, decisions, conclusions and agenda of each session of The Council of the Commission are publish. Accordingly, this year, a part of the documentation from the previous period are also included on the site, and all documents are uniformly renamed for convenience during the search. Also, Commission’s sectors regularly translate the most important documents to English language, which is then published on the website.

During 2012, according to the Law on Free Access to Information of Public Importance, Commission has received seven (7) requires that requested specific information on which it has acted, and has given the required answers.

In accordance with the Law on Personal Data Protection, The Commission has established and maintained appropriate records, which are registered in the Central Register of the Commissioner for Information of Public Importance. In this way, the public and other interested subjects are promptly and fully informed about the Commission’s work.

During 2012, Information Service of the Commission promptly responded to all the questions asked by the journalists of local and foreign media, daily and weekly newspapers, agencies, radio and TV stations.

Besides answering direct questions from journalists, Commission for Protection of Competition publishes on its website all announcements, as well as all the decisions, resolutions and relevant information about the work, on the addresses www.kzk.gov.rs and www.kzk.org.rs.
Commission’s Information Sector is performing the technical part of this task.
11. COOPERATION WITH AUTHORITIES AND REGULATORY BODIES OF GOVERNMENT IN SERBIA

Intense action of the Commission in variety sectors of the economy requires the intensification of cooperation with numerous government agencies and organizations, as well as regulatory bodies.

With some agencies and organizations, as for example the Chamber of Commerce and Industry of Serbia, the Statistical Office of the Republic of Serbia, the National Bank of Serbia (NBS), the Ministry of Finance, the Customs Administration etc., in this period, we continued the previously established successful cooperation. The same applies to the regulatory bodies, especially to the Republic Agency for Electronic Communications (RATEL) and the Energy Agency of the Republic of Serbia. We also established a good cooperation with the Ministry of Internal Affairs and its individual departments, as well as some local authorities, or the city hall/municipality.

Cooperation with these institutions is a two-way - The Commission requests the submission of data, as for the conduct of proceedings and for the implementation of the sectorial analysis of the market or to act on received initiatives and submissions. The Commission is also acting according to their demands to deliver opinions, data, information, etc.

The Commission has to ensure continuous dialogue and organized system of exchange of information with the competent authorities of the Republic of Serbia, whose work can affect the development of competition in the market and the applicability of the Law on Protection of Competition.

With certain institutions, the Commission has signed the Protocol of Cooperation - the National Bank of Serbia (NBS), the Republic Agency for Electronic Communications (RATEL) and the Energy Agency of the Republic of Serbia, and the plan is to sign a protocol with the Republic Broadcasting Agency.

11.1. Participation of Commission’s Representative in the work of the Commission for State Aid Control

System of the protection of competition in the Republic of Serbia, in addition to protection of competition which is regulated by the Law on Protection of Competition ("Official Gazette" No. 51/09), includes the control of State aid that is regulated by the Law on State Aid Control ("Official Gazette" No. 51 / 09).
The representative of the Commission, as a Deputy Chairman of the Commission for State Aid, attended all the meetings of the Commission held in the 2012 and was actively involved in its work. During 2012, we had 20 sessions of which 8 were electronic, which is in accordance with the Rules of Procedure of the Commission for State Aid.

In these sessions we issued 227 decisions, conclusions and opinions, of which:

- A total of 106 decisions, of which 89 decisions on the permissibility of State aid (40 in the previous controls and 49 in the subsequent control), 17 decision that the application does not apply to State aid, 2 decisions on compliance with rules for granting State aid on legal basis (regulations), 1 solution of partial acceptance of the appeal and 1 solution that on the allocation of funds provisions on State aid does not apply the;

- A total of 68 conclusions, of which 47 conclusions were about the initiation of subsequent inspections, 11 conclusions which entail compliance with the rules for granting state aid and 10 other conclusions (ordered of delivery of information or was dismissed application);

- 53 opinions on the submitted applications.

Because of the importance of protection of competition and State aid control, we find it necessary, in a greater extent to improve cooperation between the two commissions.
12. INTERNATIONAL COOPERATION

12.1. Relations with the European Union

12.1.1. Commission's activities in the EU accession process

- Representatives of the Commission actively participated in the work of the Expert Group of the Coordinating Body for the EU Accession and Subgroup of the Expert Group on Competition Policy. In the work of these bodies, the Commission took part in the Action Plan for the implementation of recommendations of the European Commission, as well as in the elaboration of the National Plan for the Adoption of the Acquis of EU.

- Commission’s representatives participated in the meeting of the Enhanced Permanent Dialogue on economic and financial issues, held on 4 - 5 December 2012. Representatives of the Commission exhibited in the part related to the liberalization of prices. The European Commission is familiar with the Commission's position on the issue of regulation and liberalization of prices in the Serbian market and its opinion on proposed rules and regulations, which are setting out the prices of certain products/services.

- The Commission maintains regular communication and cooperation with the European Integration Office.

12.1.2. Obligations under the Stabilization and Association Agreement (SAA) and cooperation with EU institutions

- The Commission operates in accordance with Article 73 of the Stabilisation and Association Agreement, and Article 38 of the Interim Trade Agreement, which are regulating the issues of competition. In accordance with these provisions, the Commission is obligated to, when deciding on the cases which may affect trade between Serbia and the EU, apply the criteria arising from the competition’s rules applied in the EU. In terms of commitment concerning the harmonization of legislation, the Law on Protection of Competition is significantly in line with regulations of the EU, and these proposed changes to the Act are aimed at further harmonization of procedural and substantive law of the EU.

- Commission takes part in the work of the Sub-Committee on the Internal Market and Competition, which was established in accordance with the provisions of the Stabilisation and Association Agreement and whose competence is to monitor the processing of obligations under the Agreement in these areas. The third meeting of the Sub-Committee on the Internal Market and Competition was held on 27 March 2012.
- During the year, enclosures for the Annual Progress Report on Serbia's progress towards European integration (Progress Report) are regularly submitted to the European Commission. Enclosures are related to legislative activity, the administrative capacity and the decisions in procedures which determine violations of competition and concentration control, as well as other actions taken for effective implementation of the Law on Protection of Competition.


**12.1.3. Participation in the translation of EU into Serbian language - professional editing of translations of European legislation**

During the Process of Stabilization and Association, Republic of Serbia is obligated to make translation of legal flows of the EU into Serbian language in order to, at the time of entry into the EU, have the entire corpus of the EU legal flows prepared in Serbian language, which will be published in the Official Journal of the EU. The process of translation of legal acts of the EU is coordinated by the European Integration Office which, in cooperation with relevant government institutions and other bodies, prepares the list of priorities and engages translators. All institutions are required to appoint coordinators and expert reviewers who will accompany the translation process and be engaged in professional editing of translations. The Commission for Protection of Competition is involved in the whole process, and determines the coordinator, deputy coordinator and two expert reviewers.

The list of priorities for 2012 was submitted to the European Integration Office, and a number of EU regulations on professional editing were delivered. Commission’s professional redactors concluded that certain provisions which were submitted to the Commission are no longer in effect, or that there has been a change and the European Integration Office is notified about that.

The Commission, in accordance with the instructions, which were obtained in defined terms, made the documents nomination for translation. In accordance with received instructions, the nominees are just acts like "regulation" while guidelines and other documents are not yet able to be nominated. Besides the acts nominated by the Commission, there are acts in its field of work that were previously nominated by the European Integration Office or some other body with the authority to nominate.

According to the records held by the Commission, in the areas of competition a total of 45 acts have been nominated, of which 11 are regulations governing the principles and issues of "general importance of competition policy“, 7 regulations governing issues related to concentration control, and 27 nominees regulations governing issues related to the so-called classical "anti trust" (restrictive agreements, including cartels and abuse of dominant position).
12.1.4. Projects financed by the EU

- Strengthening the institutional capacity of the Commission for Protection of Competition (CPC) in the Republic of Serbia, Europe Aid/11SER01/07/11 – CRIS 2012/293-188)

After an international tender and evaluation of received tenders at the headquarters of the EU Delegation in Serbia, in September 2012, the project „Strengthening the institutional capacity of the Commission for Protection of Competition (CPC) in the Republic of Serbia“ has began. This is a project that will be implemented for 30 months by company "GIZ International Services" and which provides the strengthening of the capacity of the Commission, as well as practical training, not only within the Commission, but also for representatives of judges of the Administrative Court, the business community and regulators. Also, the project provides implementation of an electronic database of all documents and cases conducted at the Commission.

The project is financed from the pre-acceptance program IPA 2011, in the amount of 2.5 million euros.

Three basic components of the project, that is, its objectives are:

- Improving the capacity of the Commission for Protection of Competition;
- Strengthening the capacity of market regulators in terms of protection of competition and
- Improving the culture of protection of competition in the Republic of Serbia.

Tasks and activities describe the general objective of the project as "a contribution to increasing the capacity of Serbia to obtain the obligations arising from the Stabilisation and Association Agreement (SAA) in the field of competition", while the specific objective of the project is described as "the provision of adequate technical assistance to the Commission for Protection of Competition (CPC) to strengthen the institutional and operational capacity for the proper application of competition policy with the aim of providing economic benefits to consumers and participants in the market trends."

The aim of this project is:

- The improvement of the capacity for implementation of CPC’s policy, is achieved through the implementation of appropriate investigation and analysis, strengthening the competence of persons responsible for various cases and through the application of standards that are close to EU standards, and all based on specific examples of EU, decisions made by the European Court of Justice – ECJ and the European General Court – EGC, in cases of implementation of the Law, and the judgments with special emphasis on the decisions on measures of economic evaluations;
- To increase the capacity of the bodies who regulate the market, in relation to the protection of competition, through a comprehensive analysis of existing and necessary sectoral regulations and the application of competition rules to such regulation, assessment of barriers of market entry, as well as the specific challenges related to the assigned exclusive rights, with reference to the legal regulations relating to the providing universal and professional services.

- Improvement of the culture of the protection of competition in Serbia through lobbying activities in order to increase awareness about the formation of cartels and abuse of dominant market position, tools to prevent distortions of competition in the market, with a focus on government and public and specialized institutions, companies and business associations, consumer society, academia, and the public.

Implementation of the project is divided into three components, and the expected results are:

**Component 1 (Strengthening capacity in order to implement CPC’s policy)**

- Improving of expertise, capability and capacity of CPC for undertaking the investigation and publication of decisions based on solid market analysis (using the most appropriate economic/econometric methods);
- Improved knowledge of the Administrative Court (judges) related to the value of direct and random evidence in court cases related to the protection of competition;
- Improvement economic/econometric methods to analyze markets that are presented to support the investigative actions and decisions taken at the level of the CPC;
- Improving of the capacity of persons in charge of different cases within the CPC for the revelation of the secret cartel agreements and coordinated conduct; undertaking complex analysis; implementation of certain conditions for concentration in the market; detecting fictitious tender procedures with responsible officials from the Public Procurement; as well as creating operational database intended for the Commission's staff which contains a group of documents (eg, requests of the parties, decisions and opinions) and which covers the period that began by establishing competition authorities.

**Component 2 (improving the capacity of market regulators in relation to the protection of the competition)**

- Improved knowledge of market regulators regarding market analysis and economic evaluation (including economic evaluation of mergers in regulated and networked branches of industries);
- Improved knowledge of market participants and regulators on examples from the European Commission, the European Court of Justice and the European General Court, which were adopted in the decisions taken by the European Commission and the judgments related to the Law on Protection of Competition.
Component 3 (promotion of culture of the protection of competition)

- Increase public awareness of the negative effects related to the cartel agreements.

These three components are elaborated along with 30 sub-components that are supposed to provide the requested assistance through the activities of the project team for the users and other interested parties.

- **Delivery and installation of forensic software for the Commission for Protection of Competition,** Tender No: 11SER01/07/22; Publication reference: EuropeAid/131368/C/SUP/RS)

A package of tender documents for project procurement forensic software was prepared with the hiring of foreign consultants ("Danish Management"). The tender was announced by the EU Delegation in Serbia, by which the company "IMC Technologies" was selected to complete the project in the period from July to October 2012.

This project is also implemented thanks to funds from the pre-accession IPA 2011. The financial resources allocated for the project amount to about 180,000 euros. Supply of forensic software is implemented in order to equip the Commission with necessary technical conditions for the implementation of unannounced inspections. In addition to the software and supporting elements for conducting unannounced inspections, the Commission is provided with the 6 modern laptop computers with outstanding performance, as well as a significant capacity for storing large amounts of electronic data that will be collected and processed at the investigation.

Within the project, the training of staff to operate with the equipment was organized. Training was attended by 11 employees which have received international certification.

12.2. Relations with other international organizations

12.2.1. UNCTAD (United Nations Conference on Trade and Development)

After the successful preparation and presentation of the *Peer review* analysis of competition policy, in the ordinary session of the Intergovernmental Group of Experts on Competition Law and Policy (19 - 21 July 2011 United Nations, Geneva) during the 2012, the Commission
continued a very close cooperation with the UN Conference on Trade and Development (UNCTAD).

*Peer review* analysis is the only multilateral type of review of the system of competition within the United Nations system. It’s conducted by experts from developed countries and developing countries who have practical experience in the application of competition policy, combined with the exchange of experiences with recommendations for possible improvements in competition policy.

The full text, as well as an abridged version of the *Peer review Report* can be viewed at the following addresses:


Report of the Conference of UNCTAD, during which a *Peer review* document was presented, can be seen in this document at the following address:


After the public presentation of *Peer review* analysis and a series of meetings with international officials in charge of the area of competition law and policy, Swiss Government has expressed its interest to finance the implementation of subsequent *Peer review* activities arising from the Report, which can last up to three (3) years. In this regard, the Government of Switzerland - State Secretariat for Economic Cooperation – SECO hired consulting firms “Quarto Consulting” with the mission to carry out the assessment of the situation and the necessary elements to help the Commission for Protection of Competition and other organs and institutions in Serbia dealing with competition law and policy.

After a series of meetings and meetings of experts from "Quarto Consulting" with the staff of the Commission, and all relevant institutions (ministries, Chamber of Commerce of Serbia, regulators, consumer organizations, universities, law firms, company representatives) with the support of colleagues from UNCTAD, a technical assistance project Commission is created. In a very short time a proposal of comprehensive assistance is prepared, which consists of five projects that are related to the current needs of the Commission and help in concrete work of our institutions:

1) Creating forms (templates) based on EU rules, the laws and practices of the Commission, for all legal documents in the Commission - to standardize the quality of decisions in terms of legal procedures and economic assessment
2) Creating Policies and Guidelines on procedures during processing of the case
3) Support to the capacity of the Commission in order to carry out unannounced inspections
4) Identification of the most important issues of competition in regulated sectors and Commission’s proposals for the action
5) Spreading awareness among the public about the importance of competition (competition advocacy). This segment will include conferences and seminars (for employees of the Commission, as well as the professional community, especially for universities), production and broadcasting of television spots and reports, as well as a special edition of the magazine for competition issues. A very important part of the project concerns the design of Internet link of the Commission through which the companies will be able to lodge applications for unfair competition, with complete protection of all data.

The planned start of implementation is the first half of the 2013.

12.2.2. International Competition Network (ICN)

ICN is the international organization of global character, which is solely responsible for the protection of competition. The primary members of the organization are the national competition authorities. The total number of members is 115, and Serbia (the Commission for Protection of Competition) has been a member since 2005.

The Commission for Protection of Competition is a member of ICN (International Competition Network), an international network for the protection of competition, to whom we deliver reports for analysis of the competition’s body work and comparison of different approaches to solving problems, with the aim to convergence in operation.

Since 2005, until now, Serbia has participated in almost all of the workshops and the annual meetings of the ICN. During the 2012, the CPC’s representatives have made an active contribution during maintenance ICN Annual Conference, as well as during regular ICN’s workshops which are dealing with issues of cartels.

For the purposes of ICN replies to the questionnaire on the provisions of the law governing cartels, the way of investigating, processing of applications, the program immunity and mitigation, the authority of the Commission, and so on, were provided.

For its project on the work of various bodies for the protection of competition, during the 2012, ICN has asked to submit answers to a questionnaire about the procedures, which they did.
Responses are the basis for the report of the Working Group of ICN about the recommendations for future work that will be displayed on the website ICN.

12.2.3. Regional Competition Center, The Organisation of Economic Co-operation and Development (OECD) – Budapest

Although not a member of OECD, Serbia has a significant presence in the workshops organized within the regional center for the competition - the RCC, held in Budapest. RCC was founded in 2005 by the OECD and the Hungarian body for protectection of competition.

Representatives of the Commission’s professional services during the previous years attended the said meetings (during the 2012, it held 6 seminars) and contributed through written materials on cases from the Commission’s practice, on which they obtained the opinions and recommendations of experts from other bodies for the protection of competition.

Analysis, processing and preparation of proposals in accordance with all of this that is happening in the RCC Budapest and the OECD, requires constant insight into the analysis and recommendations of these bodies and their eventual implementation in Serbia – which the Commission regularly does.

The Commission is also active in the OECD’s projects, which Secretariat collects, analyzes, and provides professional assistance and in that aim, organizes seminars and workshops for countries in the region.

12.2.4. Sofia Competition Forum

During November 2012, in Bulgaria a new international organization is formed which is dealing with the law and competition policy - Sofia Competition Forum – SFC. (This body was organized under the sponsorship of UNCTAD, The Commission for Protection of Competition is invited to be a founding member). SCF deals exclusively with issues of law and competition policy and their promotion in Southeastern Europe and the Balkans.

Since the Commission has signed a cooperation agreement with the Bulgarian Commission for Protection of Competition, intensive cooperation and joint activities within the framework of the Forum’s activities is expected.
12.2.5. Network for Competition of the Energy Community

Network for Competition of the Energy Community was established by the signing of the Joint Declaration at the headquarters of the Energy Community Secretariat in Vienna on November 23, 2012.

The newly established Network for Competition of the Energy Community, whose member is the Republic of Serbia, is a platform for the direct cooperation of competition authorities of the Member States through the exchange of information and experiences, considering individual cases, the adoption of guidelines and best practices, etc. The establishment of the Network of Competition is the first step in further activities which will be implemented within the network, and as a final result, improvement of the existing legislative framework is expected which is regulating the energy sector and protection of competition, and in particular, adequate enforcement of the law on protection of competition in a specific sector, such as the energy sector.

The signing of the Joint Declaration and the establishment of the Network of Competition of the Energy Community is important for the Commission for Protection of Competition primarily baring in mind that in the said sector, where intensification of free market competition is still expected, the Commission has conducted a sector analysis, but not the administrative procedures in order to determine the existence of abuse or restrictive agreements.

12.2.6. Global Competition Review

Organizations with similar characteristics as the ICN, with the important difference that the members and participants of seminars, workshops and practical presentations, work in the legal profession, business and other organs. Primarily focused on the organization of seminars related to certain industries which are characterized by significant market concentration and where the violations often occur.

Also, Global Competition Review publishes a very respectable journal in the field of competition, and yearbook of best practices from all over the world. The Commission has prepared and submitted answers for “The 2012 Handbook of Competition Enforcement Agencies,” informer of bodies for the protection of competition, which is updated every year.
12.3. Internships

12.3.1. Internship Projects for employees in European Competition Authorities

In the previous period, the Commission began a special training program for employees through internships in other Competition Authorities. This qualitative step forward, when it comes to international cooperation, was achieved after a presentation by the Commission’s representatives within the United Nations Conference on Trade and Development (UNCTAD) and the positive evaluation of our progress.

The Commission has established close contacts with leading international institutions and a large number of other Competition Authorities from around the world, and almost with all the European institutions. As a result of the successful cooperation, we have received positive responses to our request for admission of the Commission’s employees in Internship Programs in some of the European Competition Authorities.

In this way, an internship in the Swiss Commission for Protection of Competition (COMCO), for a period 3 months, for one Commission’s employee is secured. The internship was conducted from January - April 2012, and our partners from the Swiss Commission covered all costs. This type of cooperation has proved to be very useful, since the stay in a much-respected institution contributed to the successful transfer of knowledge and the adoption of modern business that is presented later in Serbia. Contacts made during internship programs, were a base for further direct consultation regarding crucial matter that commission deals with during certain cases.

Commission’s representative was on a one-month internship at the Secretariat of UNCTAD, in order to improve international connectivity in the field of competition.

Besides that, the important objectives in Switzerland were also preparing an international conference in Serbia dedicated to the presentation of an expert “Peer review” analysis, and also negotiations with representatives of the Swiss Government regarding the financing of the technical assistance to the Commission for Protection of Competition.

Working in a team of UNCTAD as well as the presence and active participation in the Conference of the Intergovernmental Group of Experts on Competition, was very remarkable and significant, especially in terms of presenting during the performance, and indirect contact that was made with a large number of representatives of the Competition Authorities and International Organizations.
Special significance is also reflected in the preparation of materials for the conference in Serbia, finding funding for this occasion, strengthen relationships with colleagues from UNCTAD, Swiss Commission for Protection of Competition and representatives of the Swiss Government, as well as confirmation of the readiness of the project technical assistance, preparation of project proposals and the provision of funds for this purpose.

With colleagues from the **German Body for the Protection of Competition** (Bundeskartellamt) the same model of cooperation is also agreed, but for more people in shorter periods. Our representative was in Bonn, on the two-week training, and the coverage of the costs is compared agreed with the German Foundation IRZ.

The agreement on the internship is generally agreed with the Austrian Chancellery for Protection of Competition, and the details will be specified during the first half of 2013.

### 12.4. Protocols on Cooperation (Bilateral Cooperation)

In addition to the already signed protocols on cooperation with some countries (Austria, Hungary, Bosnia and Herzegovina, Bulgaria), which establish certain mutual obligations of cooperation, in the previous period we have achieved close cooperation with the Competition Authorities of the Russian Federation and the Republic of Kazakhstan (the Federal Antimonopoly Service of the Russian Federation and the Agency for Protection of Competition - Competition Agency of the Republic of Kazakhstan), as with the Commission for Protection of Competition of Romania, which resulted in the compositing and adoption of the draft Agreement on Cooperation. During the 2012 we signed the agreements with all of these three institutions.

- **Cooperation Agreement with the Agency for Protection of Competition - Antimonopoly Agency of the Republic of Kazakhstan**, was signed on April 11 2012, during a conference on the occasion of the “Competition Day” in Belgrade. With respect to the good relations that the two countries confirmed by the signing of the Agreement on Free Trade between Serbia and Kazakhstan, this Agreement on Cooperation between Competition Authorities is a good basis and foundation for security in commercial and economic relations between companies from these two countries. In addition to a direct relationship with the agency from Kazakhstan, in this way, we ensured cooperation with all other countries belonging to the Commonwealth of Independent States of the former Soviet Union.

- **Cooperation Agreement with the Romanian Commission for Protection of Competition** was signed on May 12 2012 in Bucharest, during the celebration of 20th anniversary of the institution. This document represents an important confirmation of continued cooperation with the Competition Authorities from the European Union, and allows us to participate and access to seminars, training courses, as well as the most current materials
in the field of EU law and competition policy. Since this is a country with which we share the border, this means easier exchange of information on individual cases, because there are a large number of market participants active in the markets of both countries.

- Agreement with the Federal Antimonopoly Service of the Russian Federation (FAS Russia) was signed on December 5 2012 in Belgrade, during the conference, which was organized especially for that occasion. FAS Russia is currently one of the most active institutions dealing with competition law and policy, and it belongs to the 15 most important Competition Authorities around the world. This cooperation allows representatives of the Commission to participate in the training in the most advanced training center in the area of competition, which is FAS Russia, opened in Kazan. This contributes to raising the level of knowledge and expertise, as well as facilitating the exchange of information, which is of great significance if we know that Serbia and Russia have signed a Free Trade Agreement.

### 12.5. International Conferences and Seminars

- Every April, the Commission organizes "Competition Day". This is an opportunity to present the results of the previous year and the possibility of acquiring new knowledge through professional lectures. On April 11 2011, an international conference was held on this occasion with the participation of representatives from European Commission, UNCTAD, EU Delegation, the bodies for the protection of competition from more than 20 countries, as well as the highest representatives of the Serbian government authorities.

  The main theme of the conference was - International cooperation as a mean of harmonizing of international cooperation of harmonizing practices of national Competition Authorities.

  During this year's conference, we signed an agreement on cooperation with the Agency for Protection of Competition - Antimonopoly Agency of the Republic of Kazakhstan.

- In cooperation with UNCTAD, on October 11-12, we held a two-day international conference in Belgrade, dedicated to the results and recommendations of the peer review analysis. This was an opportunity for the relevant institutions in Serbia, as well as representatives of the countries of the region, to present the analysis and its findings and recommendations, and to formalize future project support to the Commission which will be funded by the Government of Switzerland and UNCTAD. The conference was very noticeable, since the speakers were the world’s most important representatives in the field of competition law and policy: Prof. William Kovacic, George Washington University,
Hassan Qaqaya, Director of Competition and Consumer Protection, UNCTAD, Sam Pieters, DG COMP, EU, Petko Draganov, Deputy Secretary-General UNCTAD-a, Prof. Vincent Martenet, President of the Commission for Protection of Competition of Switzerland, Kristina Geiger, Assistant Director, Swedish Commission for Protection of Competition and others.

Topics covered in several panel discussions were: A common struggle against violation of competition; Cooperation between public authorities; Unannounced inspection and recent cases in the European practice; Competition Advocacy; The acquisition and transfer of knowledge in recent established Competition Authorities.

- On the occasion of a visit of the delegation of the Federal Antimonopoly Service of the Russian Federation (FAS Russia) headed by the President, Mr. Igor Artemyev, on December 5 2012, a conference in Belgrade was organized, in cooperation with the Serbian Chamber of Commerce. The conference was an opportunity to present the work of the Commission for Protection of Competition and the FAS Russia, and to formalize the successful cooperation through the signing of Agreement between these two institutions.

In addition to presenting the Russian and Serbian Competition Authorities, conference was used to maintain a panel discussion on the role and powers of the Federal Antimonopoly Service, in terms of foreign investments and public procurements, and for presenting the electronic platform for trading, which is gaining importance in the international trade of goods and services.

Conference was attended by the representatives of the state institutions, companies operating in Serbia, regulatory bodies, universities and law firms. Visit of this important delegation is used to determine the bilateral meetings of specific joint activities for the coming year.
### OVERVIEW OF THE ACTIVITIES OF THE COMMISSION IN 2012

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<thead>
<tr>
<th>TYPE OF CASE</th>
<th>Completed</th>
<th>In progress</th>
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<tr>
<td><strong>VIOLATION OF COMPETITION</strong></td>
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<tr>
<td>Restrictive Agreements</td>
<td>7</td>
<td>4</td>
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<td>Exemption from prohibition</td>
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<td>1</td>
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<tr>
<td>Abuse of dominant position</td>
<td>5</td>
<td>4</td>
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