

Pursuant to Article IV 4. a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the 60th session of the House of Representatives, held on 16th September 2009, and at the 36th session of the House of Peoples, held on 1st October 2009, has adopted

LAW
ON AMENDMENTS TO THE COMPETITION ACT

Article 1

In the Competition Act ("Official Gazette of BiH", No. 48/05 and 76/07) in Article 2 paragraph (1) the words "who directly or indirectly participate in the trade of goods and services" are replaced with words "that are directly or indirectly engaged in the production, sale of goods and provision of services ", in front of the word "their" the word "can" is added and after the word "actions" words "prevent, restrict or distort" shall be replaced with: " prevent, restrict or distort ".

In item a) after the word "entrepreneurs" the comma is deleted and the words: "and their associations" are added.

Paragraph (2) is amended as follows:

“(2)This Act also applies to the economic entities that have control over other economic entity, and the economic entities under their control. Economic entity under the control of another economic entity is considered to be an economic entity in which other economic entity, directly or indirectly:

- a) owns more than half of the share or shares, or
- b) may exercise more than half of voting rights, or
- c) has a right to appoint more than half of the members of management, supervisory board or appropriate body for managing and controlling the operations, or
- d) in other way has a right to manage the operations of the economic entity.”

In paragraph (3) the words "economic activity "shall be deleted and the words "of economic entities" are replaced with the words: "to economic activities".

Article 2

In Article 3 in items (1), (2) and (3) after the word " product ", the words "and/or services" are added.

Paragraph (4) is amended as follows:

“(4) In certain cases, relevant geographic market may be established at international level”.

Article 3

In Article 4 paragraph (1) the words "as well as decisions of associations of economic entities" are replaced with the words "as well as decisions and other acts of economic entities".

In paragraph (3) item a) at the end of the text-colon is deleted and the conjunction "and" is added.

Article 4

In Article 5, paragraph (2) shall be deleted.

The former paragraphs (3), (4) and (5) become paragraphs (2), (3) and (4).

In the former paragraph (3) that becomes paragraph (2), the words "within a specified period" shall be replaced with the words: " within the period referred to in Article 41, paragraph (1), item b) of this Act".

In the former paragraph (4) that becomes paragraph (3) in item c), the words "determined obligations" are replaced with the words: "obligations determined by".

In the former paragraph (5) that becomes paragraph (4), number "(4)" is replaced with number "(3)".

Article 5

In Article 8, paragraph (2) words "provided that the agreement does not contain provisions that despite insignificant market share, lead to prevention, restriction or distortion of competition " is replaced by the words " except the hard core restrictions "

In paragraph (3) item b) after the word "not", the words "permanent or potential" are added.

In paragraph (4) after the word "fulfill" a comma is placed and the words "as well as hard core restrictions" are added.

Article 6

In Article 9 paragraph (2) the words "may have" are replaced with the word "have" and the words: " "Bosnia and Herzegovina" are deleted.

Paragraph (3) is amended as follows:

"(3) It is assumed that more economic entities have a dominant position in the market of goods or services, when two or three economic entities in the relevant market together have market share which exceeds 60 (sixty) %".

After paragraph (3) a new paragraph (4) is added which reads as follows:

"(4) It is assumed that more economic entities have a dominant position in the market of goods or services, when four or five economic entities in the relevant market have the joint market share which exceeds 80 (eighty) % . "

Former paragraph (4) shall become paragraph (5).

Article 7

In Article 11, paragraph (2) shall be deleted.

Paragraphs (3) and (4) become paragraphs (2) and (3).

In the former paragraph (3) that becomes paragraph (2) the words: "paragraph (2) of this Article and" are deleted, and after the number "41" the words: "paragraph (1), item c) " are added, after the words " it is assumed", the word: " that "is added and after the word " agreement ", the words " or the conduct of economic entity" are added.

In the former paragraph (4) that becomes paragraph (3), number "(3)" is replaced with number "(2)", the words " that the agreement in question" are replaced with the words "that the concluded agreement, or conduct of economic entity", and after the words "does not abuse ", the word "is" is deleted.

Article 8

In Article 14, paragraph (1) item a) is amended as follows:

a) total annual turnover of all participants to the concentration earned through the sale of goods and/or services in the world market amounts to 100.000.000 KM in the final account in the year preceding the concentration; and "

In item b) number " 5.000.000 KM" is replaced with "8.000.000 KM ".

Article 9

In Article 15, paragraph (1) item a) the words "direct taxes" are replaced with the words: " indirect taxes".

Article 10

Article 16 is amended as follows:

"Article 16

(Notification of Concentration)

(1) Economic entities, participants to the concentration are required to submit a notification of concentration in terms of Article 12 and 14 of this Act, within 15 days of signing the agreement, the publication of public offering or acquisition of control, depending on what happens the first.

(2) Notification of concentration may be filed when the participants to the concentration demonstrate their intention to concentrate by means of concluded agreement in principle, memorandum of understanding, letter of intent signed by all parties to the concentration or publication of intent to purchase.

(3) In the case when control over the whole or parts of one or more economic entities is acquired by other economic entity, the notification is to be submitted by economic entity acquiring control; in all other cases economic entities shall submit a joint application.

(4) Council of Competition is obliged to publish the data from the notification of concentration in daily newspapers, in particular:

a) the names of economic entities the participants to the concentration;

b) a form of concentration, and

c) the economic sector within which the concentration takes place.”

Article 11

In Article 17 paragraph (1) the words " positive and negative " shall be deleted, after the word "effects" the words "that result in a significant distortion of competition" shall be added and the words "that result in a significant distortion of competition " are deleted.

Article 12

In Article 17 paragraph (1) the word: ‘‘intention’’ is deleted, and number ‘‘60’’ is replaced with number ‘‘30’’.

After paragraph (5), a new paragraph (6) is added that reads as follows:

(6) In case that the Council of Competition, within 30 days, in accordance with paragraph (5) of this Article, starting from the date of issuance of the acknowledgment of receipt of complete and adequate notification referred to in Article 30 of this Act, does not adopt a conclusion on initiation of the process of assessment of concentration, the concentration shall be deemed compatible.’’

Paragraphs (6), (7), (8) and (9) shall become paragraphs (7), (8), (9) and (10).

In the former paragraph (9), which becomes paragraph (10), number "(8)" is replaced with number "(9)".

Article 13

In Article 19, paragraph (2) item b) number "14" is replaced with number "12".

Article 14

In Article 30, the title of the Article is replaced with the following: " (Documentation with the notification of concentration). "

In paragraph (1) the word " intent " is deleted.

In item a) after the word "or" conjunction ‘‘and’’ is added.

In item c), the words " the regulation on concentration " are replaced with the words: ‘‘bylaws with this act ''.

Article 15

In Article 32, paragraph (2), number "15" is replaced with number "30".

Article 16

In Article 34, paragraph (3) the word 'deliberately' is deleted.

Article 17

In Article 35 paragraph (2) the words " and do not want to make them accessible, " shall be deleted.

Article 18

In Article 41, paragraph (1) is amended as follows:

“ (1) Upon adoption of conclusion on initiation of the proceedings, the Council of Competition shall make a final decision within:

- a) six months for determination of the prohibited agreements prescribed in Article 4 of this Act;
- b) three months for determination of the individual exemption prescribed in Article 5 of this Act;
- c) four months for determination of abuse of dominant position prescribed in Article 11 of this Act;
- d) three months for determination of the assessment of concentration prescribed in Article 18 of this Act.”

In paragraph (2) the words " and Article 5 and 11 of this Act, " are deleted.

Article 19

In Article 42, paragraph (1), item g) shall be deleted.

After paragraph (1) a new paragraph (2) is added which reads as follows:

“ (2) In addition to the decision referred to in paragraph (1) of this Article, the Council of Competition adopts other decisions, conclusions and other acts on the basis of the provisions of this Act.”

Article 20

In Article 48, paragraph (1) item d) at the end of the text, full stop is replaced with a semicolon. After the item d), a new item e) is added as follows:

“ e) conducts a concentration without previously adopted decision on the concentration in terms of Article 18, paragraph (9) of this Act. “

Article 21

In Article 54 paragraph (1) the words: “in the course of the proceedings” shall be deleted.

Article 22

Council of Competition shall, within six months from the date of entry into force of this Act, harmonize by-laws and other acts relating to the implementation of the provisions of this Act.

Article 23

Proceedings initiated before the Council of Competition, which have not completed by the date of entry into effect of this Act, shall be continued under the provisions of the Competition Act (''Official Gazette'' No. 48/05 and 76/07).

Article 24

This Act shall come into effect eight days after its publication in the ''Official Gazette of BiH'', and shall be published in the official gazettes of entities and Brcko District of Bosnia and Herzegovina.

Parliamentary Assembly of BiH

1st October 2009, Number 425/09

Sarajevo

Chairman of the House of Representatives
of the Parliamentary Assembly of BiH

Dr. Milorad Živković

Chairman of the House of Peoples
of the Parliamentary Assembly of BiH

Ilija Filipović, s.r