



REPUBLIC OF ALBANIA
-THE COMPETITION AUTHORITY-
The Competition Commission

No. ___ Prot.

Date : 10/09/2009

DECISION

No. 121, Dated 10/09/2009

“On

the adoption of the Regulation “On agreements of minor importance”

The Competition Authority, in its meeting held on 10.09.2009, with the participation of:

- | | |
|----------------------------|------------|
| ▪ Mrs. Lindita Milo (Lati) | Chairwoman |
| ▪ Mrs. Servete Gruda | Member |
| ▪ Mr. Koço Broka | Member |
| ▪ Mrs. Rezana Konomi | Member |

Discussed the following issue :

Subject: The adoption of the Regulation “On agreements of minor importance”, in implementation of Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition”.

Legal basis : Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition”, as amended, Article 24, letters “d”, and “dh” and Article 84.

The Competition Commission, after reviewing the draft-regulation titled “On agreements of minor importance”,

DECIDED:

1. To adopt the regulation titled “On agreements of minor importance”, enclosed to this decision.

This decision takes immediate effect.

THE COMPETITION COMMISSION

Servete Gruda

(_____)

Member

Rezana Konomi

(_____)

Member

Koço Broka

(_____)

Member

Lindita Milo (Lati)

CHAIRWOMAN

REGULATION
ON
“AGREEMENTS OF MINOR IMPORTANCE ”

CHAPTER I
GENERAL DISPOSITIONS

Article 1

Purpose

The purpose of this regulation is the exemption from prohibition of those agreements, which do not impact market competition and are not within the remit of Article 4 of the Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition”.

Article 2

Definitions

1. For the purposes of this regulation, "undertaking", "party to the agreement", "distributor", "provider" and "buyer" are included within the concept of "related undertaking".

"Related undertakings" are those undertakings that directly or indirectly:

- have the power to exercise more than half the voting rights;
- have the power to appoint more than half the members of the supervisory board, management board or board of the undertaking's legal representatives, or
- Have the power to manage the operations of the undertaking.

Article 3

General rules

1. Article 4 of Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition” prohibits agreements between undertakings that may have as object the limitations, restriction or distortion of competition in the market.
2. Agreements between middle and small undertakings may, in very few cases impact competition in the market
3. The Competition Authority shall not launch investigative procedures in relation to agreements that meet the criteria set forth in this regulation.
4. This regulation is also applied to agreements for mergers and coordination practices.

CHAPTER II

Agreements of minor importance

Article 4

Definition of agreements of minor importance

1. In the meaning of Article 4 of Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition”, agreements that do not impact significantly competition in the market are defined as follows:
 - a. If the total market share of the parties to the agreement does not exceed 10% of any one of the relevant markets affected by agreement, when the agreement is concluded between undertakings which are actual or potential competitors in each one of these markets (agreements between non - competitors), or;
 - b. . If the market share of each party to the agreement does not exceed 15% of any one of the relevant markets affected by the agreement when it is concluded between undertakings which are not current or potential competitors in each one of these markets (agreements between non-competitors)

If case of impossibility to classify a given agreement as agreement between competitors or non-competitors, then it is applicable the portion of 10 percent of the market.

2. When in a relevant market, competition is limited by the cumulative effect of the agreement for sale of goods or services offered by various undertakings, the market share under paragraph 1 of this Article is reduced to 5% for agreements between competitors as well as agreements between non-competitors. The cumulative inhibitory effect is unlikely to exist if less than 30% of the relevant market is covered by parallel agreements producing similar effects.
3. The agreements are not restrictive of competition if market shares do not exceed of 5, 10%, and 15% [of the market] as determined according to points 1 and 2 of this Article, over two consecutive calendar years more than 2%.
4. In order to calculate the market share, is necessary to determine the relevant market, which is defined on the basis of Guideline titled “On the definition of relevant market”. It consists on the product relevant market and geographic relevant market. The market shares should be calculated on the basis of sales value, or when it is appropriate, the purchase value. If the data on values are not available are used estimates based on other useful market information, to include data on volumes.

CHAPTER III Other dispositions

Article 5

This Regulation takes immediate effect.