



REPUBLIC OF ALBANIA
-COMPETITION AUTHORITY -
Competition Commission

DECISION

No. 115, Dated 26.05.2009

On

“Some additions and amendments to the Regulation “On the functioning of the Competition Authority”

The Competition Authority, in its meeting held on 26.05.2009, with the participation of:

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

Pursuant to Article 24, letter “c” and Article 27 of the Regulation “On the functioning of the Competition Authority”, and upon proposal of the Secretariat,

DECIDED:

The application of some additions and amendments to the Regulation “On the functioning of the Competition Authority”, approved through Decision of the Council of Ministers No. 58, dated 15. 10. 2007, according to the text enclosed to this decision.

This decision enters into effect immediately.

THE COMPETITION COMMISSION

Lush Perpali	Servete Gruda	Rezana Konomi	Koço Broka
(_____)	(_____)	(_____)	(_____)
Deputy Chairman	Member	Member	Member
			Lindita Milo (Lati)
			CHAIRWOMAN

SOME ADDITIONS AND AMENDMENTS TO THE REGULATION “ON THE FUNCTIONING OF THE COMPETITION AUTHORITY”

Article 1

After Article 12 is added Article 12/1, with the following text:

“Article 12 /1

Argumentation and publishing of the decisions

“The decisions adopted by the Commission of the Competition Authority are associated with the argumentations [for the decision made] no later than 15 days from the adoption [of the decision] at the respective meeting of the Commission.

If during the voting process there are votes against it, the members of the Commission [voting against] brings to evidence his/her objection at the part pertaining to the signatures, by adding to his/her signature the note pro or against.

The decisions adopted by the Commission of the Competition Authority, along with the minority opinion, argued, if there is any, are published in the Official Bulletin of the decisions of Competition Authority.”

Article 2

Under Article 22, “Working Groups”, paragraph 3 is changed and becomes as follows below. Also, are added to it paragraphs 4 and 5.

"3. The Working Group, in consultation with the Secretary General and the directors of the directorates, defines the methodology and matrix of actions, which are attached to the minutes of meeting of the Working Group. The approval of the minutes of meeting of the important meetings of the Working Group, and the final report of the investigative phase, is achieved by consensus or majority vote, (if such approach becomes necessary), during the conclusive meetings of the Working Group, for which are always recorded the minutes of meeting. In parts where there can be no consensus among members of the Group, the member(s) holding a minority opinion is named, while the minority opinion is reflected at the end notes of the page.

4. The Report together with the investigation file is submitted to the Secretary General. The latter requires prior opinion concerning the Report to the directors of the Directorates (excluding those who were members of the investigative Working Group), who give it in writing as soon as possible, but no later than 15 days from the day that they received information on the report.

5. Upon receiving the Report by the Working Group, the Secretary General [proceeds as follows:]
- a) In the event that he/she finds that the procedures and conclusions of the Report have a basis, proceeds to submit it, along with the corresponding account, for review to the Commission, within 5 working days, and reports it before the Commission together with the Chairman of Working Group.
 - b) If the Secretary General is not convinced about the facts, procedures and conclusions of the Investigation Report, he/she may return it only once back to the Working Group for review, together with his/her remarks and suggestions on the report.
 - a) When the Working Group or the majority of its members, even after the return of the Report by the Secretary General do not agree with the remarks and proposals, prepares counter-arguments to the Secretary General's remarks. In this case the Secretary General submits the Report along with the investigative file to the Commission. The presentation of the Report before the Commission, in this case will be made by the Working Group itself, while the Secretary General clarifies his/her own remarks on the report.

Article 3

After Article 26 is added Article 26/1 with the following text:

Article 26/1

Complaints, requests and notifications that individuals wish to submit to the Competition Authority, must be presented in written form and by filling in the model form, as provided in this regulation. Those who are unable to submit a complaint in writing, or do not wish to do so, may present it orally. In this case the Protocol Office employee will note the complaint, request or notification made, will make note that the person who presents it do not wish to formally deposit it and will sign under it together with another employee of the institution and that is present during the abovementioned procedure.

In cases when the Competition Authority or the employees of the institution are presented with complaints, requests or reports in writing, but that are submitted by hand or email, and that concern issues that are under the jurisdiction of the institution, they must be recorded in the relevant protocol book.

The Competition Authority, takes into consideration also the anonymous complaints if they concern issues that are under the jurisdiction of the institution. These complaints are recorded in the Book of the protocol.

In any case, the Competition Authority official who comes to know of a complaint, made either in writing or orally, and that has been submitted in any manner, is bound to maintain the confidentiality on the identity of the person who made the complaint, as well as on the content of the complaint, pursuant to the obligation stipulated in Article 30 of Law 9121 "On the protection of Competition."

Article 4

After Article 26/1 is added Article 26/2 with the following text:

"Article 26/2

The Model Complaint Form

"The Model Complaint Form that must be completed in the cases when a person approaches the Competition Authority in order to present a complaint or notification, must be signed and submitted by the person who makes the complaint, or his/her legal representative. The complaint must include:

-1. Firstly, the specification of the person who is filing the complaint, if he/she wishes to do so.

- a. to be identified; or,
- b. remains anonymous.

In there must be noted the date of the completion of the form, or the date of the submission of the form.

- 1/a. The identity, address of residence, or work address of the person who is filing the complaint, and to whom are violated the rights and liberties, as well as other contact data such as telephone number, fax number or electronic address (email). All this applies if the person who is filing the complaint meets letter "a" of paragraph 1 of this Article;

-2. Allegations for the suspected limitations or restrictions of competition towards him/her, or other subjects;

- 3. The name of the enterprise or the institution that is suspected to violate the law, and in relation to which is complaining or signalling;

- 4. Description of facts to which is referring;

- 5. Ordering of evidence at his/her disposal concerning the suspected breach;

-6. Names of other public institutions that have been previously informed on the issue that is the object of the complaint;

-7. Any type of document, original or copy, which is in support of the complaint, request of notification.

The Model Complaint Form can be found at the official webpage of the Competition Authority.”

Article 5

After Article 26/2 is added Article 26/3 with the following text:

Article 26/3 Handling of complaints

Within 24 hours from the time of arrival at the institution, must take place the distribution of requests, complaints or reports by the Secretary General, who marks the sector or directorate, in which competence is the tracking of the issue.

The Secretary General assesses whether the request is within the jurisdiction of the Competition Authority and notifies the Commission on that assessment.

The party / parties that have filed a complaint or request should be notified by the Secretary General on its proceeding, no later than 15 days from date of receipt by the Authority . At the conclusion of the procedure, the Authority shall notify the interested parties on the results of the administrative proceedings of the complaint, request, or notification in accordance with the dispositions of the Law "On Protection of Competition."