

# **Competition Act**

**Second Draft**

**June, 2003**

# Competition Act

## GENERAL PROVISIONS

### Article 1

The aim of this Law is to secure free competition on the domestic market in order to foster economic efficiency and consumer welfare.

### Article 2

(1) This Law shall apply to all natural persons, legal persons and entrepreneurs directly or indirectly engaging in trade in goods and services in the course of their profession.

(2) This Law shall apply without regard to character, form and form of ownership of undertakings and legal persons, unless otherwise specified by law.

(3) This Law shall also apply to associations of natural and legal persons whose activities influence or may influence the conduct referred to in the paragraph 1 of this Article.

(4) This Law shall not apply to the trade unions and employers' associations solely regarding their activities in respect to collective bargaining and protection of workers' rights.

(5) This Law shall also not apply to sport organizations and associations solely regarding their activities in respect to organizing sport competitions.

(6) This Law shall apply to natural and legal persons and associations thereof established or located abroad if their activities create or may create an effect on the domestic market.

(7) This Law shall apply to those actions of exercising intellectual property rights, including patents, trademarks, copyright, industrial design and models, that, with respect to this law, represent an unlawful restraint of free competition.

(8) All persons that this law applies to shall hereinafter be referred to as 'market participants'.

### Article 3

This Law shall apply to agreements restricting competition, abuse of dominant position and mergers, acquisitions and other forms of integration and concentration of legal persons.

### Article 4

The relevant market consists of both product and geographic markets.

A relevant product market is a set of products that can reasonably substitute for each other from the standpoint of the consumer of said products, taking into consideration their normal use, price, quality and terms of sale.

A relevant geographic market is the territory outside which the consumer of said products is unable to obtain those products, or may obtain them only under considerably less favorable conditions.

### Article 5

The enforcement of this law shall be carried out by the Antimonopoly Agency, established by this law (hereinafter referred to as ‘Agency’).

## PART II

### RESTRICTIONS OF FREE COMPETITION

#### AGREEMENTS RESTRAINING COMPETITION

### Article 6

- (1) Horizontal agreements are agreements between actual or potential competitors.
  - (2) Vertical agreements are agreements between actual or potential buyers and purchasers.
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(3) Agreements of mixed nature shall be classified according to their prevailing characteristics.

#### Article 7

(1) Horizontal agreements on price fixing, bid rigging, restriction of output or division of the market shall be null and void.

(2) Other horizontal agreements, that is, the agreements between actual or potential competitors, shall be null and void only if the competent body determines that they restrict free competition to the extent that such restriction outweighs their contribution to fostering of production or distribution of goods or to the promotion of technical or economic progress, while not bringing benefit to the consumers.

(3) Agreements referred to in the previous paragraph shall not be null and void if they are concluded among market participants whose total share of the relevant market of goods and services does not exceed 5 percent.

(4) Exceptionally, only certain provisions of the horizontal agreement shall be null and void, provided that the agreement may remain in force without the void provision and provided that the void provision was neither a condition nor a decisive incentive for conclusion of the contract.

(5) Antimonopoly Agency may pass a regulation determining circumstances under which the agreements referred to in the second paragraph of this Article shall not be considered prohibited.

#### Article 8

(1) Vertical agreements, that is, the agreements between actual or potential buyers and purchasers, shall be null and void only if the competent body determines that they restrict free competition to the extent that such restriction outweighs their contribution to fostering of production or distribution of goods or to the promotion of technical or economic progress, while not bringing benefit to the consumers.

(2) Vertical agreement shall not be null and void if none of the parties involved holds a dominant position on the relevant market of goods and services, except in the cases of

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resale price maintenance or territorial protection being established for the benefit of the parties to the agreement or other persons.

(3) Exceptionally, only certain provisions of the horizontal agreement shall be null and void, provided that the agreement may remain in force without the void provision and provided that the void provision was neither a condition nor a decisive incentive for conclusion the contract.

(4) The Agency may pass a regulation determining circumstances under which the agreements referred to in the first paragraph of this Article shall not be considered prohibited.

#### Article 9

(1) Market participants may request Agency to determine whether the agreement they have concluded is prohibited according to provisions of Article 7, paras 1, 2 and 3 or Article 8, paras 1 and 2.

(2) Taking into account available data, the Agency may issue a conclusion determining that the agreement is not prohibited according to provisions referred to in the previous paragraph. In that case, no sanction provided by this Law may be passed against the parties to the agreement if further proceedings result in declaring the agreement null and void according to the provisions of articles 6 and 7.

(3) Exceptionally from the provisions of the preceding paragraph, a legal person or a responsible official shall be punished for purposefully submitting, alongside the request for Agency's opinion, erroneous data or evidence on the concluded agreement, if the erroneous data or evidence influenced issuing of the conclusion.

(4) If no conclusion has been issued in accordance with paragraph 2 of this Article within 60 days from the day on which the request has been received, the Agency shall be deemed to have issued a conclusion determining that the agreement does not fall within prohibitions of Article 7, paras 1, 2 and 3 or Article 8, paras 1 and 2.

#### ABUSE OF DOMINANT POSITION

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## Article 10

(1) A market participant has a dominant position if it has the power to behave independently of other market participants, thus being in a position to act without taking into account business decisions of its competitors, purchasers or suppliers.

(2) The position of a market participant shall not be considered dominant if its relevant market share is below 40 percent.

(3) A market participant having a relevant market share exceeding 40 percent may or may not be considered dominant, depending, among other things, on market participant's share on the relevant market, competing market participants' shares on that same market, barriers to entry and strength of potential competitors, as well as possible dominant position of the buyer.

## Article 11

(1) It shall be prohibited to abuse dominant position on a relevant market in a way that exploits the customers of said goods and services, particularly having in mind:

- a) direct or indirect imposition of purchase or selling prices that are not based on costs;
- b) limitation of production, markets or technical development.

(2) It shall be prohibited to abuse dominant position on a relevant market in a way that restrains or excludes competition, while at the same time dominant position is maintained or strengthened, particularly having in mind:

- a) inhibiting or blocking the access of domestic or foreign competitors or potential competitors to the markets in certain goods or services, including distribution services;
- b) applying dissimilar conditions to equivalent or comparable transactions with other trading parties, thereby placing them at a competitive disadvantage;

- c) making the conclusion of contracts subject to acceptance of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts;
- d) directly or indirectly imposing purchase or selling prices that are not based on costs and that are likely to drive competitors out of the relevant market;
- e) creating, in any other way, obstacles to entrance of competing firms or to the market expansion of existing competitors; unless the creation of obstacles to the entrance of competing firms or to the expansion of existing competitors is predominantly arising out of efficient business activities of the dominant firm.

## CONTROL OF MERGERS AND CONCENTRATIONS

### Article 12

(1) A control of mergers and concentrations shall be exercised in the following situations:

- a) transferring the property of one or more companies to another company in exchange for its shares (acquisition);
- b) transferring the property of two merging companies to the newly established company in exchange for the shares of the new company (merger);
- c) establishing ownership control over a company that has until then been acting independently, except in the case where a banking or financial institution temporarily acquires shares for further resale and offers them for resale within 12 months, and if during that period the ownership status has not been used in order to influence company's business decisions that restrain free competition.
- d) at least two independent companies jointly create and control a company and transfer to it identical activities they were carrying out independently until then.

(2) For the purposes of this law, the following shall be deemed to constitute ownership control:

- a) a position of the mother company with a majority capital share;

- b) contractual provision permitting decisive influence on the decisions of another company;
- c) acquisition of any other ground to exercise decisive influence on the decisions of another undertaking.

### Article 13

(1) Mergers and concentrations are subject to authorization of the Agency in the case when both:

- a) combined annual turnover of all companies participating exceeds 10 million EUR according to the financial statement of the company for the previous year, and
- b) annual turnover of at least two of the companies participating in the merger exceeds 1 million EUR each according to the financial statements for the previous year.

(2) For the purposes of the paragraph 1 of this Article, only the turnover achieved on Serbian market shall be taken into account.

(3) During the first year of operation of a company, the turnover shall be calculated on the basis of turnover achieved in the current year adjusted for the annual level.

(4) For the purpose of calculating annual turnover, sales between companies participating in merger or concentration shall not be taken into account.

(5) For the purposes of the paragraph 1 of this Article, the following shall be taken into account instead of the annual turnover:

- a) for companies providing financial services - 10 percent of their total assets at the end of the previous year;
- b) for insurance and reinsurance companies – total annual value of gross premiums according to the financial statements for the previous year.

(6) Mergers and concentrations fulfilling the conditions laid out in this article and in the preceding articles of the Law shall be notified to the Agency prior to applying for the registration of ownership change or organizational change in the competent registry..

#### Article 14

Agency's Commission referred to in Article 33 shall issue a final ruling refusing permission for a merger or concentration if the merger or concentration creates, or is likely to create, or strengthens, or is likely to strengthen a dominant position on a relevant market.

### PART III:

## PROTECTION OF COMPETITION

### ANTIMONOPOLY AGENCY

#### Article 15

(1) Protection of competition in accordance with this Law shall be performed by the Antimonopoly Agency (hereinafter: the Agency).

(2) The Agency is independent (and responsible to the Parliament).

(3) The Agency is a legal person.

#### Article 16

Activities of the Agency are financed out of the State's budget.

#### Article 17

(1) Public competencies this Law entrusts to the Agency are carried out by the Council of the Agency.

(2) The Council of the Agency issues rules and regulations and other general acts pertaining to the activities of the Agency or implementation of this Law. The Government may communicate its suggestions on the contents of the bylaws. Unless the

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Council of the Agency accepts those suggestions, it shall communicate a reply to the Government, including reasons for not accepting Government's suggestions.

#### Article 18

- (1) The Agency shall, in the course of performing entrusted public competencies, issue conclusions and rulings.
- (2) A judicial review is available against all rulings of the Agency, unless this Law excludes such possibility.

#### Article 19

- (1) The Council consists of the President, two Vice-Presidents and six members.
- (2) The President heads the Agency and represents it.
- (3) One of the Vice-Presidents shall be responsible for the Office of Monitoring Market Structures and Behavior (hereinafter the Office), while the other shall preside over the Commission that determines the existence of restriction of free competition and passes appropriate measures provided by the Law (hereinafter the Commission).
- (4) Other members of the Council are at the same time members of the Commission as well.

#### Article 20

- (1) President, Vice-Presidents and the members of the Council are appointed by the Parliament on proposal of the Government.
- (2) The President is appointed for a period of six years.
- (3) The Vice-President responsible for the Office of Monitoring Market Structures and Behavior is appointed for a period of five years.
- (4) The Vice-President responsible for the Commission is appointed for a period of seven years.
- (5) Members of the Council are appointed for a period of seven years.

(6) On first round of appointments, two Council members shall be appointed for a period of six years, two members for a period of four years and two members for a period of two years.

(7) New members of the Council shall be appointed at least 30 days before the term of appointment of the member being replaced expires.

(8) Council appointments shall not be held in consecutive terms..

#### Article 21

(1) Members of the Council and Office staff may not hold another office or hold another gainful employment, may not be executive officials of a company or members of the managing or supervisory boards of companies, and may not acquire any other remuneration except for remuneration arising out of performance of scientific, artistic or educational activities or arising out of intellectual property rights.

(2) Agency's rules and regulations may regulate additional conflict of interest situations.

#### Article 22

(1) The term of the President, the Vice-Presidents and the members of the Council shall end in the case of:

- a) expiration of the term of appointment;
- b) dismissal for reasons provided in the paragraph 2 of this Article;
- c) submission of a resignation in writing to the Parliament, in which case the day on which the resignation has been received by the Parliament represents the last day of service;
- d) death.

(2) On the proposal of the Government or the Agency's Council, the Parliament may dismiss the President, the Vice-Presidents and the members of the Council before the expiration of the term of appointment:

- a) if he/she is unable to perform his/her duties due to illness, for a period longer than 6 months;

- b) if a final court judgement convicted him/her to a prison sentence longer than 6 months or has convicted him for the criminal offences of abuse of official position, fraud, theft or any similar crime that renders him/her unfit for continuation of service;
- c) if, while the Government was preparing proposal for his/her appointment, he/she has disclosed false information to the Government or has omitted to disclose information that was of importance for the preparation of the proposal
- d) if, for no valid reason, he/she refuses or omits to perform the duty he/she has been appointed to for an uninterrupted period of at least three months, or for a total period of six months in the course of a 12-month period, or
- e) if it is proven that he/she has violated conflict of interest provisions of Article 21 of this Law.

#### Article 23

- (1) The Agency has the General Secretariat.
- (2) The General Secretariat is headed by the President of the Agency.
- (3) Except for general affairs, the General Secretariat especially assesses draft laws and other provisions and measures that may influence the protection of free competition and communicates its opinion to the responsible bodies. The Government and other persons that may submit draft legislation and regulations in accordance with the Constitution shall submit the drafts to the Agency not later than it is submitted to the body responsible for promulgating said law, rule or regulation.
- (4) General Secretariat shall on its own motion initiate assessment of the provisions and measures that may be of importance for protection of free competition and communicates its opinion to the responsible bodies.
- (5) General Secretariat informs the general public on competition policy and on the measures taken to promote it.
- (6) General Secretariat carries out duties listed in Article 30 of this Law.
- (7) General Secretariat carries out other duties entrusted by rules and regulations of the Agency and the decisions of competent bodies.

#### Article 24

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- (1) The Agency shall, in accordance with a special regulation, publish all its internal regulations, rulings, measures and conclusions.
- (2) Conclusions terminating or prolonging the proceedings of the Agency and final rulings on restraining of free competition shall be published in the State's official gazette.

## OFFICE OF THE ANTIMONOPOLY AGENCY

### Article 25

- (1) The Agency has the Office of Monitoring Market Structures and Behavior that performs professional and other competencies.
- (2) The Office:
  - a) shall on its own motion, on request of the competent person or any other request commence the procedure for assessing whether an agreement of the market participants has restricted competition, whether a dominant position has been abused, and in the cases of mergers and concentrations undertakes measures and procedures prescribed by the law, except those reserved for the Commission;
  - b) brings before the Commission cases regarding restriction of competition that the Commission is competent to decide on in accordance with this Law.

### Article 25

- (1) The Office shall always start the proceedings referred to in the previous article:
    - a) if so requested by a state body that, acting within its competencies, has identified possible elements indicating restriction of competition provided by this Law;
    - b) if so requested by a natural or legal person claiming that restriction of competition harmed its rights or interests.
  - (2) The Office may start the proceedings referred to in the previous article on the basis of its own findings or request of any physical or legal person.
  - (3) The Office may start proceedings on authorization of a merger or concentration at the request of the interested market participants or on its own motion.
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## Article 27

(1) In order to fulfill its responsibilities, the Office may:

- a) request all natural and legal persons to submit documents and information regarding their business activities, including documents and information regarded as business secrets, and request documents and information containing state secrets in accordance with special regulation;
- b) request access to property, office space or land currently owned or possessed by the investigated market participants, natural and legal persons doing business with investigated market participants, or by the responsible officials of investigated market participants, or business partners of such responsible officials;
- c) take depositions related to the proceedings from present or former officials, present or former employees of the market participants, or from other persons who may have knowledge of the required information;
- d) request from state bodies and organizations, including independent agencies regulating markets of goods, capital and services all data that is important for carrying out its duties, if such data is being collected and handled by such state bodies.

(2) For the purpose of the preceding paragraph, request of the Office shall be in writing.

(3) All natural and legal persons shall comply with Office's request for provision of data and documents, access to property, office space and land, or deposition request in accordance with the paragraph 1 of this Article.

(4) Office's request for provision of documents shall state a deadline for submission. The period of time between the issuance of the request and the expiration of the deadline for submission shall not be counted towards the time limit referred to in Article 31.

## Article 28

(1) All data collected by the Office shall be classified as official secret.

(2) The Agency shall keep data labeled as official secret and shall be materially and criminally liable for their protection.

## Article 29

Upon completing assessment referred to in Article 25(2)(a), the Office may determine that there is no restriction of free competition as laid out in this law and may terminate the proceeding. The Office shall issue a final ruling, terminating the proceeding, if, upon completion of the activities referred to in Article 25 (2) (a), it determines that there is no evidence that the rules on free competition, as laid out in this Law, have been violated.

## Article 30

(1) Final ruling regarding termination of the proceeding shall be communicated to the General Secretariat.

(2) If the General Secretariat determines that the ruling on terminating proceeding has been arrived to in contravention with this Law and facts of the case, the President of the Agency may, on the recommendation of the General Secretariat, order the Office to establish additional facts that may be important for the existence of violation as laid out in this Law, or may order the Office to bring the case before the Commission immediately.

(3) This order may be issued within 8 days after the receipt of a final ruling terminating the proceeding.

(4) If the order referred to in paragraph 2 of this Article is not issued within the provided time limit, the Office shall communicate final ruling on termination of the proceedings to the person who requested or initiated proceedings, market participant(s) who were the subject of the proceedings; and in the case of a final ruling authorizing merger or concentration, the ruling shall be communicated to the person who submitted notification and the competent registration authority.

## Article 31

(1) Upon receiving notification of an intended merger or concentration, the Office shall, within 30 days:

a) issue a conclusion terminating the proceeding in accordance with Article 29, or

b) issue a conclusion ordering examination of consequences of the intended merger or concentration, and may set a time limit no longer than 90 days for completing this investigation.

(2) If the office fails to issue any one of the conclusions referred to in the previous paragraph within the time limit prescribed, it shall be deemed that the Office has terminated the proceedings in accordance with the Article 29.

(3) The final ruling on examining consequences of the intended merger or concentration shall be published in the State's official gazette.

#### Article 32

(1) If the Office determines that an agreement restricting free competition has been entered into or that abuse of dominance took place on the market, it shall bring the case before the Commission together with the proposal of measures to be taken.

(2) If the Office, acting on notification for authorization of the merger or concentration meeting thresholds set out in Article 13, determines that the merger or concentration may create or strengthen dominant position on the market, it shall bring the case before the Commission, proposing denial of authorization.

(3) If the Office, acting on request or on its own motion, determines that an already completed merger or concentration meets the thresholds set out in Article 13 and that it may create or strengthen dominant position on the market, it shall bring the case before the Commission together with the proposal of measures to be taken.

(4) If the market participant does not comply with a request of the Office referred to in Article 27 or submits false data referred to in Article 9 to the Agency, the Office shall bring the case before the Commission together with the proposal of measures to be taken.

#### COMMISSION OF THE ANTIMONOPOLY AGENCY\

#### Article 33

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(1) Commission of the Agency decides on existence of agreements restraining competition, abuse of dominance and passes appropriate measures; it determines if an intended or completed merger or concentration meeting thresholds set out in Article 13 creates or strengthens dominant position. The Commission shall, in accordance with this Law, impose fines and order actions to be taken to remedy restrictions of competition, non-compliance with the requests of the Office and submission of false data.

(2) The Commission acts on the basis of facts and evidence prepared by the Office.

(3) If it finds facts and evidence prepared by the Office insufficient for decision-making, the Commission may order the Office to establish additional facts or examine new evidence. The Commission may decide to examine new evidence itself or to repeat examination of evidence already carried out by the Office.

#### Article 34

(1) In order to determine facts and examine evidence the Commission shall normally hold public session. It shall particularly invite to public session persons who are subjects of the proceeding and persons who have submitted request for initiation of the proceedings.

(2) If the Commission, in order to protect a business secret, decides not to hold a public session, it may decide that the entire session or certain parts of it shall be closed for the general public.

(3) Legal or natural person, whom the proceedings have been initiated against, shall have the right to introduce facts and evidence in the proceedings, respond to statements and proposals of other participants to the proceeding, and respond to facts and evidence that are the Commission has to take into account on official ground.

(4) Unless otherwise prescribed by this Law, proceedings before the commission shall be regulated according to the provisions of the law governing proceedings before magistrates.

#### Article 35

If, after the completion of the proceeding, the Commission finds that there is no agreement restraining competition, no abuse of dominant position or that the intended or

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completed merger or concentration meeting thresholds set out in Article 13 does not create or strengthen dominant position, it shall issue a final ruling on that matter and communicate it to persons referred to in Article 30 (4).

#### PART IV:

#### MEASURES

##### Article 36

(1) If the Commission establishes that an agreement restricts competition as laid out in Article 7 (1) and (2) and Article 8 (1) and (2), it shall issue a final ruling declaring such agreement null and void.

(2) Exceptionally the Commission may, in accordance with Article 8(4) and Article 9(3), determine the nullity of certain provisions of the agreement only, provided that the agreement may remain in force without the void provisions and provided that the void provisions were neither a condition nor a decisive incentive for concluding the contract.

(3) Additionally, the Commission may decide to fine some or all of the parties to the agreement in accordance with Articles 40, 41 and 42 of this Law.

##### Article 37

(1) If the Commission establishes that there was an abuse of dominance referred to in Article 11, it shall issue a ruling ordering cessation of the abusing activity.

(2) In addition, the Commission may decide to fine a market participant abusing its dominant position in accordance with Article 43.

##### Article 38

(1) If the Commission establishes that the intended and notified merger or concentration may create or strengthen dominant position, it shall issue a final ruling denying authorization for a merger or concentration.

(2) In addition, the Commission may in its final ruling enumerate measures that participants shall carry out in order to obtain authorization of the intended merger or

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concentration, especially measures designed to prevent creation or strengthening of the dominant position on the market.

(3) If the Commission establishes that an already completed merger or concentration has not been notified for authorization, the Commission shall:

a) authorize merger or concentration retroactively if it does not create or strengthen or may not create or strengthen dominant position, and fine the participants according to Article 44 for failure to respect notification requirements;

b) order participants to undertake certain measures as a precondition for authorizing intended merger or concentration and in addition fine the participants in accordance with the Article 44 for failure to respect notification requirements;

c) deny authorization if it establishes that the merger or concentration created or strengthened or may create or strengthen dominant position or if it establishes that the participants have not met conditions set out in a decision referred to in subparagraph b) of this paragraph and in addition fine the participants in accordance with the Article 44 for failure to respect notification requirements.

(4) The Commission shall communicate the decision referred to in subparagraph c) of the preceding paragraph to the competent registration authority in order to initiate annulment of registration of merger or concentration, if the registration has already been completed.

(5) Annulment of the registration shall not affect legal transactions concluded between the participants of the prohibited merger or concentration and the third parties acting in good faith. For all claims arising out of such transactions, the participants of the prohibited merger or concentration shall be jointly and severally liable.

(6) If the Commission establishes that the intended and notified merger or concentration does not create or strengthen dominant position, or if it determines that the participants of the planned merger or concentration have undertaken appropriate measures, and consequently authorizes the merger or concentration and does so on the basis of erroneous data or evidence submitted to it by the participants of the merger or concentration, the Commission shall annul authorization of the merger or concentration and shall communicate this final ruling to the registration authority. The registration authority shall then, in turn, annul the registration of the merger or concentration. At the same time, the Commission may decide to fine the participants in accordance with the

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Article 44. Participants of the already completed merger or concentration shall be subject to the legal consequences laid out in the previous paragraph of this article.

PART V:

PENAL PROVISIONS

Article 39

Every physical person that intentionally participates in concluding agreements referred to in Article 7(1) shall be sentenced 6 months to 3 years in jail or shall be fined.

Article 40

(1) A fine in the amount of 200,000-1.000.000 dinars, or a maximum fine according to general rules in force at the moment of concluding the contract, shall be imposed on a market participant for concluding an agreement on price fixing, bid rigging or market division.

(2) For the offence referred to in paragraph 1 of this Article, a fine of 20.000-63.000 dinars, or a maximum fine according to general rules in force at the moment of concluding the contract, shall be imposed on a responsible official of the market participant.

(3) For the offence referred to in paragraph 1 of this Article, a fine of 20.000-63.000 dinars, or a maximum fine according to general rules in force at the moment of concluding the contract, shall be imposed on all physical persons participating in the conclusion of the agreement.

(4) For the offence referred to in paragraph 1 of this Article, a fine of 20.000-63.000 dinars, or a maximum fine according to general rules in force at the moment of concluding the contract, shall be imposed an entrepreneur.

## Article 41

(1) A fine in the amount of 50.000-630.000 dinars shall be imposed on a market participant for entering an agreement restricting competition as provided by Article 7(2) of this Law.

(2) For the offence referred to in paragraph 1 of this Article, a fine of 5.000-21.000 dinars shall be imposed on a responsible official of the market participant.

(3) For the offence referred to in paragraph 1 of this Article, a fine of 5.000-21.000 dinars shall be imposed on a physical person or an entrepreneur.

## Article 42

(1) A fine in the amount of 50.000-630.000 dinars shall be imposed on a market participant that has a dominant position in the relevant market and enters an agreement referred to in Article 8 of this Law.

(2) For the offence referred to in paragraph 1 of this Article, a fine of 5.000-21.000 dinars shall be imposed on a responsible official of the market participant.

(3) For the offence referred to in paragraph 1 of this Article, a fine of 5.000-21.000 dinars shall be imposed on a physical person or an entrepreneur.

## Article 43

(1) A fine in the amount of 50.000-630.000 dinars shall be imposed on a market participant for abusing dominant position on the relevant market as provided by Article 11 of this Law.

(2) For the offence referred to in paragraph 1 of this Article, a fine of 5.000-21.000 dinars shall be imposed on a responsible official of the market participant.

(3) For the offence referred to in paragraph 1 of this Article, a fine of 5.000-21.000 dinars shall be imposed on a physical person or an entrepreneur.

Article 44

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A fine in the amount of 20.000-200.000 shall be imposed on a legal person for failing to request authorization of the intended merger or concentration that meets the requirements laid out in the Article 13 of this Law, or knowingly provides false data alongside the request for authorization.

#### Article 45

(1) A fine in the amount of 10.000-100.000 shall be imposed on a legal person for knowingly submitting to the Agency false data alongside the request referred to in the Article 9.

(2) For the offence referred to in paragraph 1 of this Article, a fine of 5.000-21.000 shall be imposed on a responsible official.

(3) For the offence referred to in paragraph 1 of this Article, a fine of 5.000-21.000 shall be imposed on an entrepreneur or a physical person.

#### Article 46

(1) A fine in the amount of 10.000-100.000 shall be imposed on a legal person for not complying with the request of the Office referred to in Article 27 of this Law.

(2) For the offence referred to in paragraph 1 of this Article, a fine of 5.000-21.000 shall be imposed on a responsible official.

(3) For the offence referred to in paragraph 1 of this Article, a fine of 5.000-21.000 shall be imposed on an entrepreneur or a physical person.

### PART VI:

### TRANSITORY & CONCLUDING PROVISIONS

#### Article 47

This Law shall enter into force on the eight day following the day of publishing in the Official Gazette of the Republic of Serbia, and the first day of its enforcement shall be January 1st, 2004, except for the provisions on the establishment of the Agency which shall be enforced from the day on which the Law enters into force.

## Article 48

Antimonopoly Law (Official Gazette FRY 29/1996), that had continued to operate as a law of the Republic of Serbia pursuant to Article 20 of the Constitutional Charter of Serbia and Montenegro, shall cease to apply on the day this Law enters into force.