

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Global Forum on Competition**

**THE ROLE OF MARKET STUDIES AS A TOOL TO PROMOTE COMPETITION**

**Contribution from Montenegro**

-- Session II --

**1-2 December 2016**

*This contribution is submitted by Montenegro under Session II of the Global Forum on Competition to be held on 1-2 December 2016.*

*More documentation related to this discussion can be found at  
[www.oecd.org/competition/globalforum/the-role-of-market-studies-as-a-tool-to-promote-competition.htm](http://www.oecd.org/competition/globalforum/the-role-of-market-studies-as-a-tool-to-promote-competition.htm)*

Please contact Ms. Lynn Robertson if you have any questions regarding this document [phone number: +33 1 45 24 18 77 -- E-mail address: [lynn.robertson@oecd.org](mailto:lynn.robertson@oecd.org)].

**JT03405567**

Complete document available on OLIS in its original format

*This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.*

## MARKET STUDIES- SECTOR INQUIRES

### -- Montenegro --

1. The task of the bodies for protection of competition, including the Agency for Protection of Competition of Montenegro, is that, starting from human and other resources at their disposal, their activities primarily focus on eliminating the most serious violations of competition rules, such as cartel agreements on prices, market sharing, or various forms of abuse of dominant position of undertakings.
2. The work of these institutions is special in a way that it does not rest solely on ex post approach of solving the resulting violations of the law, but it is marked by the proactive action and approach with the aim of updating the existing and improving future legal decisions that affect or could affect the establishment of effective competition in some activities. Likewise, market analyses/studies are indispensable in order to act in this direction. They assume the corresponding economic analysis and knowledge of the economic characteristics of individual markets, and are an essential part of the assessment procedures of concentrations.
3. When it comes to the proactive action, part of the actions taken by the Montenegrin Agency focuses on researching individual markets that mark the limits of administrative or technical nature, or contain certain obstacles that prevent or hinder the development of economic freedom, i.e. the emergence of competition in these markets. Preparation of economic analysis in this regard, requires considerable material resources, as evidenced by the experience and extensive analyses/inquires conducted by the European Commission and the countries with a longer tradition in this field. Such studies have their value for those who perform, or want to perform certain activities, as well as for relevant state institutions that propose models of legal regulations of these activities, as they address the reasons that lead to a passivation of the market to the detriment of end-users and consumers. They contribute to the development of a competition culture because the state government authorities, entrepreneurs and service users have insight to the market aspects of certain activities and the possibility of their redefining on the market-basis.
4. The analyzes of individual markets or specific services and products within the market are carried out primarily with the aim of the investigation of the infringement, on which the Agency obtains information from the media, statements of market participants/undertakings, as well as practices of other competent authorities for the protection of competition in the countries of the region or the EU. The main objective of the analysis is to record the participants on the Montenegrin market operating in a sector that is subject to analysis, the conditions of competition in the market, business conditions and cooperation, as well as the potential problems opposing legislative regulations.
5. In the process of analysis, the Agency collects all necessary data in order to, by comparing them, confirm or reject the doubts about the existence of business practices which may have as the purpose or effect the infringement of the law.
6. Market research are carried out for a better understanding of individual sectors, i.e. the relevant markets, in-depth analysis of the market or individual practice in the market, primarily in markets that show the weaknesses of its functioning. The same weakness may be due to actions of market participants, the structure of each market, the behavior and habits of consumers or due to other actions that could adversely affect consumers. Sectoral studies are conducted in markets where, through giving opinions and recommendations, the competitive environment can significantly increase, as well as the benefits that

market competition brings to consumers. Such studies often reveal irregularities in markets that are contrary to the regulations on the protection of competition.

7. At the same time, sectoral studies are often the basis for the opinions and recommendations made by the Montenegrin Agency to the competent state institutions, local governments, in order to eliminate barriers to market entry, while the publication of the results of such studies, particularly through the implementation of measures contained in opinions and recommendations, at the same time strengthens the culture of protection of competition.

8. Below are the provisions from Montenegrin *Law on Protection of Competition* (Official Gazette of Montenegro 44/12) on conducting Sector analyses.

9. “In cases when the price movements or other circumstances indicate the possibility of prevention, restriction or distortion of competition, the Agency may analyze the state of competition in a particular economic sector or analyze particular categories of agreements in different economic sectors (hereinafter referred to as the “sectoral analyses”). With a view to carrying out sectoral analyses referred to in paragraph 1 above, the Agency may request the undertakings to submit all necessary data and/or documents and may carry out any necessary research. The Agency may request the undertakings to supply all agreements, decisions, notices or data with a view to establishing the existence of concerted practice. The Agency shall post reports on sectoral analyses carried out on its website.” (Article 40 of the LPC).