

In accordance with Article 12 paragraph 3 of the Law on Protection of Competition ("Official Gazette of Montenegro", No 44/12) the Ministry of Economy, hereby adopts

Rules of procedure on content and manner of application for individual exemption of restrictive agreements

Article 1

This Rules of procedure lays down the content and manner of application for individual exemption of restrictive agreements (hereinafter referred to as the "application"), whose aim or consequence are or may be prevention, restriction or distortion of competition at relevant market.

Article 2

Participants of (parties to) the agreement shall jointly submit the application, and the party to the agreement whose registered office is in the territory of Montenegro i.e. which directly or indirectly participates in turnover in the territory of Montenegro shall submit the application independently.

The application shall be submitted both in written and electronic form, as a single copy prepared in language officially used in Montenegro.

Article 3

The application shall contain the following:

- 1) name, registered office, scope of business of all participants of the agreement, and the extract from the Central Register of Business Entities for all participants of the agreement and related persons, who directly or indirectly perform turnover in the territory of Montenegro;
- 2) name, address and phone number of the authorised representative of the applicant, as well as the letter of authorisation is the application is submitted via proxy;
- 3) assessment of the participants of the agreement, relevant geographic market and relevant product market and market share of participants of the agreement at such defined relevant market for the period of three years prior the application, as well as the description of the market where participants of the agreement run business, namely the markets where the effects of the agreement are anticipated, and particularly:
 - a) characteristics and structure of the relevant market and market shares of the market participants;
 - b) characteristics and structure of vertically connected, complement and close markets with detailed description of systems of production, turnover, sale and distribution of products and market shares of the market participants;

- c) elasticity of demand and supply in markets referred to in items a) and b) of this point;
 - d) market position of participants of the agreement and their economic and financial strength;
 - e) description of actual and potential competition and their business;
 - f) legal and other obstacles for entering the relevant market;
 - g) scope of the actual purchasers' demand for relevant product and assessment of possibility of procurement from other sources.
- 4) studies, publications and analyses used for the purpose of making decision on conclusion of the relevant agreement;
- 5) the original wording and certified copy of the agreement in language officially used in Montenegro with the particular identification of the agreement part of reference for which the application is submitted;
- 6) clarification of economic benefits which are direct consequence of the agreement, namely:
 - a) the manner and scope of contribution the agreement makes to improvement of efficiency of production and turnover, determining the degree of improvement of anticipated efficiency, time period to achieve efficiency, and necessity of achieving efficiency along with defined limitations of the competition;
 - b) the manner and scope of contribution the agreement makes to encouragement of technical or economic progress;
- 7) clarification of overall effect the agreement has on consumers and development of competition at relevant market and other vertically integrated and complement markets, including:
 - a) increase of business efficiency and lowering the prices of products and services,
 - b) increase of competition at relevant or related markets,
 - c) increase of products and services quality,
 - d) introduction of new products at the market or new business model,
 - e) increase and expansion of consumers' choice.
- 8) clarification of effects of the agreement to market competition, participants of the agreement and conditions of competition between undertakings that present actual or potential buyers or distributors of relevant or closely related product, and particularly:
 - a) market dynamics in year preceding the year when the agreement is concluded;
 - b) number of competitors in relevant market and vertically integrated markets in the last three years preceding the year when the agreement is concluded;
 - c) assessment of costs for entering the market which is subject of the agreement and sunk costs,

- d) list of market participants that can experience the effects of the agreement as expected;
 - e) manner of distribution most used at relevant market and importance of distribution in disposal of relevant product to final purchaser;
 - f) contribution to encouragement of development of competition at relevant or other vertically integrated or close market;
- 9) decisions of bodies for protection of competition of other countries which received the application for approval of the agreement implementation, namely the evidence of submitted application or intention to submit the application as well as the grounds for submitting;
- 10) clarification of the need of limitation referred to in the agreement, namely each individual limitation and reasons for not meeting conditions referred to in article 11 of the Law on Protection of Competence.

Apart from the data referred to in paragraph 1 of this article, the applicant can file other data he considers potentially significant for evaluation of fulfilment of conditions for individual exemption of the agreement from the ban.

Article 4

In case the conditions at relevant market change, or in case the important provisions of the agreement change during the individual exemption of the agreement from the ban, the applicant shall submit the changed data.

Article 5

Rules of procedure on content of application for individual exemptions ("Official Gazette of Montenegro", No 36/06) shall be repealed with effect from the date of entry into force of this Rules of procedure.

Article 6

This Rules of procedure shall enter into force on the eighth day following its publication in the "Official Gazette of Montenegro".

Number: 0901-389/5
Podgorica, 03 April 2013

The Minister
Dr Vladimir Kavarić