

COMPETITION ENFORCEMENT AGENCIES

HANDBOOK 2019

Published in association with:

Atsumi & Sakai

Bowmans

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ELIG Gürkaynak Attorneys-at-Law

Lapidot, Melchior, Abramovich & Co

Morrison & Foerster LLP

SRS Advogados

Van Bael & Bellis



Competition Enforcement Agencies Handbook 2019

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For further information please contact Natalie.Clarke@lbresearch.com



Competition Enforcement Agencies Handbook 2019

Insight account manager Bevan Woodhouse

bevan.woodhouse@lbresearch.com

Tel: +44 20 3780 4291

Head of production Adam Myers

Editorial coordinator Hannah Higgins

Deputy head of production Simon Busby

Designer James Green

Production editor Harry Turner

Subeditor Janina Godowska

Research editor Tom Barnes

Researcher Helen Barnes

Editor, Global Competition Review Pallavi Guniganti

Publisher Clare Bolton

To subscribe please contact

Global Competition Review

87 Lancaster Road

London, W11 1QQ

United Kingdom

Tel: +44 20 7908 9205

Fax: +44 20 7229 6910

subscriptions@globalcompetitionreview.com

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For an authorised copy contact claire.bagnall@globalcompetitionreview.com

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Global Competition Review's 2019 edition of the *Competition Enforcement Agencies Handbook* provides full contact details for competition agencies in over 100 jurisdictions, together with charts showing their structure and a Q&A explaining their funding and powers. The information has been provided by the agencies themselves and by a panel of specialist local contributors.

The *Competition Enforcement Agencies Handbook* is part of the *Global Competition Review* subscription service, which also includes online community and case news, enforcer interviews and rankings, bar surveys, data tools and more.

We would like to thank all those who have worked on the research and production of this publication: the enforcement agencies and our external contributors.

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Commission for Protection of Competition

Sv. Kiril i Metodij br. 54, 1000 Skopje, R. Macedonia

Tel: +389 2 3298 666

kzk@kzk.gov.mk

www.kzk.gov.mk

Contacts

Vladimir Naumovski

President

vladimir.naumovski@kzk.gov.mk

Rozana Vankovska

Secretary General

rozana.vankovska@kzk.gov.mk

Karolina Andonovska

Head of Department for

International Cooperation

karolina.andonovska@kzk.gov.mk

Questions and answers

How long is the head of agency's term of office?

The president and the members of the Commission for Protection of Competition (CPC) are appointed for a period of five years with the right to reappointment.

When is he or she due for reappointment?

The appointment of the new president and members of the Commission was made on 18 October 2018.

Which posts within the organisation are political appointments?

The president and the members of the CPC are appointed and dismissed by the Assembly of Macedonia, upon a proposal by the CPC for appointment and dismissal matters.

For the duration of their term of office, the president and the members of the CPC may not be members of the Assembly, members of the government, persons performing duties in bodies of the political parties, members of management bodies of an undertaking or members of any other form of association of legal and natural persons that might lead to a conflict of interest.

What is the agency's annual budget?

The budget of the Commission for 2019 is approximately €360,000.

How many staff are employed by the agency?

There are 23 supporting staff employees, plus the president and two professionally engaged members of the CPC, plus two external members.

To whom does the head of the agency report?

The CPC is accountable to the Assembly of Macedonia and submits an annual report for its work no later than 31 March.

Do any industry-specific regulators have competition powers?

No. However, the regulatory authorities for the electronic communication sector, broadcasting sector and energy sector regulate and monitor the functioning of the sectors and are responsible for preventing abusive behaviour in these sectors. The CPC signed a memorandum of cooperation with the Agency for Electronic Communication, the Agency for Audio and Audiovisual Media Services, the Biro for Public Procurement, the Ministry for Interior Affairs, the Agency for Regulation of Rail Sector and the Energy Regulatory Commission on issues related to the protection of competition.

Do politicians have any right to overrule or disregard the decisions of the authority?

No.

Does the law allow non-competition aims to be considered when taking decisions?

No.

Which body hears appeals against the agency's decisions? Is there any form of judicial review beyond that mentioned above? If so, which body conducts this?

The CPC conduct administrative and misdemeanour procedures. The decisions of the CPC issued in an administrative procedure (mergers and state aid decisions) are final. A legal action on instituting an

administrative dispute before the competent court may be brought against such decisions of the CPC. The legal action on instituting an administrative dispute shall be brought within 30 days as of the day of receiving the decision and it shall not defer the enforcement of the decision.

The decisions of the CPC for misdemeanour matters (it is within the CPC) are final. A legal action on instituting an administrative dispute before the competent court may be brought against such decisions. The legal action on instituting an administrative dispute shall be brought within eight days as of the day of receiving the decision and it shall defer the enforcement of the decision.

Has the authority ever blocked a proposed merger?

Yes, once in 2007 and once in 2017.

Has the authority ever imposed conditions on a proposed merger?

Yes, in two cases so far.

Has the authority conducted a Phase II investigation in any of its merger filings?

Yes, in eleven cases.

Has the authority ever pursued a company based outside your jurisdiction for a cartel offence?

No.

Do you operate a leniency programme? Whom should potential applicants contact?

Yes, there is a leniency programme, which is based in the Law on Protection of Competition along with a by-law and leniency guidelines. Potential applicants should contact the Commission for Misdemeanour Matters.

Is there a criminal enforcement track? If so, who is responsible for it?

Article 283 of the Criminal Code for the prevention, restriction and distortion of competition stipulates that: the responsible person in the legal entity, who will conclude an agreement or will participate in concluding an agreement, decision or concerted practice, forbidden by the law, which have as their object prevention, restriction and distortion of competition, and therefore the legal entity attains a significant property gain or another suffers a significant damage, shall be punished with imprisonment of one to 10 years.

Are there any plans to reform the competition law?
Yes.

When did the last review of the law occur?

In 2010, the new Law on Protection of Competition was enacted and the small changes were made in 2011, 2014, 2016 and in 2018.

Do you have a separate economics team? If so please give details.

There is only a Department for the Analysis and Assessment of Concentrations.

Has the authority conducted a dawn raid?

Yes.

Has the authority imposed penalties on officers or directors of companies for offences committed by the company?

No.

What are the pre-merger notification thresholds, if any, for the buyer and seller involved in a merger?

According to the Law on Protection of Competition, a concentration shall be notified to the CPC if the following conditions are satisfied:

- the aggregate turnover of all undertakings participants, generated by the sale of goods or services on the world market, amounts to at least €10 million in denar equivalence according to the exchange rate valid on the day of compiling the annual account, realised in the business year preceding the concentration and provided that at least one participant must be registered in Macedonia;
- the aggregate turnover of all undertakings participants, generated by the sale of goods or services in the Macedonia, amounts to at least €2.5 million in denar equivalence according to the exchange rate valid on the day of compiling the annual account, realised in the business year preceding the concentration; or
- the market share of one of the participants amounts to more than 40 per cent or the total market share of the participants in the concentration amounts to more than 60 per cent in the year preceding the concentration.

Are there any restrictions on minority investments?
No.

MACEDONIA

What discounts are available to companies that cooperate with cartel investigations?

There is a possibility of full immunity and reduction of fines.

Does the authority conduct criminal investigations and prosecutions for cartel activity? If not, is there another authority in the country that does?

No. The Public Prosecutor can do that.

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