

The Legal Regime of Competition in Bulgaria

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Abstract

Bulgarian Competition Law has as aim to protect and foster competition and free enterprise in economic activity. Over the years the law was repeatedly changed by the legislature to meet the requirements of economic life.

Bulgarian Competition law provides protection against agreements, decisions and concerted practices, abuse of monopolistic and dominant and all other acts and actions that can lead to the prevention, restriction or distortion of competition in the country and affect trade between member states the European Union as well as unfair competition.

The Competition Act in Bulgaria contains the general provisions for ensuring that the manufacturing and the distribution of services within the country's territory takes place in a manner in which all market participants observe the basic requirements for lawful domestic competition.

*The Act protects against unjust competition **and** monopolistic activities and sets forth the conditions for the existence of the Commission for the Protection of Competition, an autonomous institution in the country.*

Keywords: *Competition, Protection of Competition Act, Comision for the Protection of Competition, Bulgaria, European Union*

Introduction

The main legal provisions in the field of competition are Commercial Act of 18 June 1991 (last amended eight December 2020), the Protection of Competition Act of 28 Nov 2008 - PCA, last amended on 5 April 2019), Regulation (EC) 139/2004 on the manage of concentrations between undertakings (Merger Regulation), which is without delay applicable in Bulgaria¹.

The main regulatory authority is the CPC (Comision for the Protection of Competition), which is set up under the PCA. The CPC is an unbiased specialised national authority primarily based in Sofia, which is accountable for utility of the EU competition legislation. Under the PCA, concentrations are challenge to mandatory prior observe to the CPC

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¹ See T. Dimitrova, T. Mileva, A. Leshev, Merger control in Bulgaria: overview, p. 1.

The CPC has now seven branches (for restrictive agreements, public procurement and concessions, concentrations and sector analyses, competition policy, abuse and unfair competition, financial-economic activities and property management, and administrative-legal and information services) and its decision-making body is a seven-man council.

1. The beginnings of competition legislation

The “Law on the Protection of Competition” (published in the State Gazette No. 79/1991) was the first law to defend free competition in Bulgaria. The Law offers with ‘monopoly positions, collusion and ‘unfair competition. Monopoly positions covers not solely monopolies, but also dominant positions and to some extent mergers. According to article 3, a monopoly function exists if an entity either has the distinctive proper to interact in a positive variety of economic endeavor by meanof advantage of regulation or has a income share that exceeds 35% of the national market. All entities were prohibited from adopting selections that may lead to the introduction of ‘monopoly positions’ if such choices notably avoid competition or the free dedication of expenditures. If mergers lead to such 'monopoly positions,' they are prohibited.²

An exemption, however, may also be requested from the competent authority. If no opposition is registered within 30 days of notification, authorization is viewed granted. The law lists a quantity of abuses of ‘monopoly position’ inclusive of classical cases like price-fixing, limiting output or get right of entry to to markets, tie-ins, monopoly pricing, and market allocation. Cartel agreements, as nicely as decisions of companies, monetary groups, associations or persons, which explicitly or implicitly supply for the creation of a monopoly state of affairs in the country, or de facto lead to it, are declared void. Contractual terms proscribing one of the parties with appreciate to the desire of a market, suppliers, buyers, agents or consumers, barring when the restriction arises from the nature of the contract and is no longer injurious to the consumers, are prohibited. Chapter four prohibited “unfair competition” which is described as “any act or habits in carrying out financial undertaking which is contrary to bone fide trade practice and harms or threatens to damage the pastimes of competitors”³.

Article 14 prohibited the divulgence of change secrets and techniques and defines when this constitutes unfair competition. Article 15 deals with unfair competition with the aid of herbal persons. It states that no individual is authorized to be part of the administration of a competing association running in

² See B, Hoekman, S. Djankov - Competition Law in Post-Central Planning Bulgaria, p. 3.

³ See B, Hoekman, S. Djankov, *op. cit.*, p. 4.

the same line of enterprise as the person's original enterprise for the first three years after leaving an enterprise. This is one of the most noteworthy provisions of the law. The CPC consists of a chairman, two vice-chairmen and eight members. All were appointed by National Assembly for a period of five years⁴.

Self-initiation often occurs in cases where "public goods" are involved, including pricing conduct with the aid of utilities. Thus, the CPC might also observed practices that are possibly to violate the law (e.g., thru press reports) however the place it is not going that non-public incentives are high enough to result in a complaint. It is additionally used as an educational device, the objective being to instruct the public concerning the attain of the law. Noteworthy is that the Commission cannot impose penalties in four situations where it has concluded that the law has been breached via a prison entity. In such instances the Commission must publish a petition earlier than the in a Bulgarian Court of Law⁵.

The CPC may was competent to set - up fines. In instances where an abuse of monopoly position is found to occur, the CPC could also additionally recommend the imposition of obligatory maximum or minimum fees to the Council of Ministers or a body authorized through it. Court approaches are very slow, in phase because about a third of all cases were in provincial courts the place the CPC did not have nearby offices. As of mid-1996 there was once a backlog of 47 cases awaiting selections in such courts. In instances of abuse of monopoly, the most fantastic that can be imposed through the courts is certain in the competition law to be Leva 250,000 (which was about US \$10,000 in 1991).

2. The current competition legislation

Under Article 22 of the PCA, the triggering tournament for notification to the CPC is a concentrate on where there is lasting a trade of manage over one or more undertakings resulting from either, the consolidation or merger of two or greater previously impartial undertakings, one or more persons who already have manage over at least one undertaking obtaining direct or indirect manipulate of other one or greater different undertakings and the creation of a joint assignment performing on a lasting foundation all the functions of an economically autonomous entity.

Article 23 of the PCA units out exceptions to the notification requirement where concentrations are difficulty to obligatory prior word to the CPC, the mixture turnover of all of the undertakings taking part in the awareness in the

⁴ See B, Hoekman, S. Djankov, *op. cit.*, p. 4.

⁵ See B, Hoekman, S. Djankov, *op. cit.*, p. 5.

territory of the Republic of Bulgaria exceeds 25 million leva for the previous monetary year, or the turnover of every or of at least of one of the undertakings participating in the concentration, or the venture being acquired, exceeds 3 million leva for the previous financial year⁶.

Notification necessities for mergers are obligatory solely the place a concentration meets the triggering thresholds.

The undertakings concerned need to notify the CPC of a notifiable awareness either: Before conclusion of the agreement. Following the conclusion of the agreement or acquisition of a controlling interest, however before any criminal or factual operation executing the transaction.

In certain cases, on request of the parties, CPC might also consider the concentration earlier than conclusion of the agreement or earlier than the public announcement of the bid, if the parties supply the CPC with sufficient proof of a precise belief intention to conclude an settlement or, in the case of a public bid, the place they have publicly introduced an intention to make such a bid⁷.

Notice of a attention should submitted to the CPC jointly by using the undertakings that either participate in the consolidation or merger. incorporate the joint venture. acquire the manipulate over some other undertaking.

The CPC has authority to look at and check the proposed concentration. A attention will only be permitted if there is no danger of it main to the creation or strengthening of dominant role that would notably impede the high-quality opposition on the applicable market.

Assessment of the concentration is initiated below article 38 of the PCA. Notice of the concentration have to be submitted collectively through the concerned undertakings by way of filing an application in writing to the CPC⁸.

The observe should be filed in a form accepted by the CPC and should incorporate the Information on the undertakings taking part in the concentration. Information on the undertakings and persons directly or circuitously controlling the undertakings collaborating in the concentration. Information on the undertakings over which the members in the awareness workout control. The nature, legal form and the purposes of the concentration. The relevant markets on which the members in the attention operate. The market shares and the mixture turnovers of the undertakings participating in the concentration. Information on any boundaries to entry into the relevant markets. Information on the concerned undertakings' foremost competitors, suppliers and customers.

Reasons displaying that the attention either: does now not lead to the establishment or strengthening of a dominant role that would drastically obstruct

⁶ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 3.

⁷ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 4.

⁸ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 4.

high-quality opposition in the applicable market or does set up or reinforce a dominant role but targets at modernising the applicable economic exercise or improving market structures to higher fulfill the pursuits of customers and the impact normally outweighs the terrible influence on competition in the relevant market⁹.

The CPC may additionally commence evaluation proceedings on its own initiative The tariff charged by way of the CPC beneath the PCA consists of nation charges and costs due in the notification procedure.

A filing charge of 2000 leva applies. A charge of 0.1% of the mixed turnover of merging corporations for the preceding monetary year, however now not more than 60,000 leva, is additionally due if the CPC troubles a decision permitting the concentration¹⁰.

Once the parties to the concentration notify the CPC, they ought to chorus from any felony or factual action in relation to the proposed awareness until a decision is taken through the CPC.

Exceptions are set out for transactions that represent smooth gives or a sequence of offers with securities traded on regulated markets. For these exceptions to apply, the CPC have to have been duly notified in advance, and the vote casting rights of the bought securities need to no longer be exercised without for the sole purpose of keeping the price of the investment¹¹.

Undertakings that infringe the prohibition are difficulty to fines imposed by means of the CPC.

The applicable techniques and timetable are set out in chapter 10 of the PCA, "Procedure of issuance of authorisation for attention of undertakings".

Assessment of the concentration beneath Article seventy eight of the PCA should be initiated within three days from the receipt of notice. If there are admitted irregularities, there are no in addition lawsuits and a ruling to remove irregularities within a seven-day period should be served on the applicant or on the notifying person. If the irregularities are now not eliminated within the seven-day term, the CPC chairperson will refuse initiation of the evaluation procedure.

Once the evaluation is initiated, the CPC assesses the attention through two most important procedures: In first assessing the concentration, the CPC will assess, among different things, the undertakings' function on the applicable market earlier than and after the concentration, undertakings' economic and monetary potential; undertakings' get admission to to the relevant markets, legal, administrative and different boundaries to entry to the applicable markets¹².

⁹ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 5.

¹⁰ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 5.

¹¹ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 5.

¹² See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 6.

The evaluation in an accelerated investigation should be carried out within 25 working days, within which the CPC should undertake a decision. The period starts offevolved from the first commercial enterprise day following the initiation of proceedings.

After the accelerated investigation is finished, the working group prepares and submits a file to the member of the CPC assigned to screen the procedure. The monitoring member of the CPC informs the chairperson of the completion of the accelerated investigation. The chairperson then holds a closed session of the CPC, at which the CPC will undertake a choice that either establishes that the transaction is no longer a attention or that the undertakings have been otherwise no longer obliged to supply prior word to the CPC, authorises the concentration, authorises the awareness in accordance with the amendments proposed through the members to the concentration or initiates a certain investigation. A specified investigation is carried out, if, as a result of the accelerated investigation, the CPC finds that the attention generates serious concerns that a dominant role would be established or strengthened, and that the fantastic competition on the relevant market would be appreciably impeded¹³.

The CPC incorporates out the special investigation and need to shut the proceedings inside 4 months of the book of the selection for initiation of the unique investigation in the CPC's public electronic register. In cases providing factual or criminal complications, this term might also be prolonged, however by using no more than 25 working days. If measures are proposed to guard competition, the term can be extended by using a further 15 working days.

After sufficient proof is collected, the working team prepares a file and provides it to the monitoring member of the CPC. The monitoring member of the CPC notifies the chairperson of the prepared report. The chairperson then holds a closed session of the CPC, at which the CPC adopts both a decision to authorise the concentration, or a ruling accepting the preliminary conclusions on the negative effect of the concentration on competition¹⁴.

Under Article 85, para.3 of the PCA, the notifying person or the stakeholders can present an opinion on the preliminary conclusions of the CPC within 14 days.

The CPC has also adopted Rules for prior contacts concerning the manipulate of concentrations between undertakings, which got here into force from 1 January 2021.

In general, once an assessment of concentration or a transaction is initiated, the CPC publishes a short announcement in its public electronic register. Any third parties that might also be affected by the given awareness or transaction can grant statistics or opinions on the transaction's influence on the applicable market.

¹³ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 6.

¹⁴ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 6.

If the CPC decides to undertake a distinctive examination of the concentration or the transaction, an announcement is posted in the electronic register. Interested parties can submit records and opinions and can request to be joined in the intending inside 30 days of this publication. Parties have proper of access to all materials gathered in the route of an investigation, without for materials containing industrial, change or different secrets included by way of law¹⁵.

Third parties that are joined in the complaints have the proper to attend and take part at the hearings before the CPC.

The CPC's important test is whether or not the attention or transaction could lead to the establishment or strengthening of a dominant position that would substantially impede high quality competition in the applicable market.

The CPC takes into account, amongst other things, the undertakings' role on the applicable market earlier than and after the concentration.

Undertakings' monetary and monetary potential. Undertakings' get admission to to the applicable markets. Legal, administrative and different barriers to entry to the relevant markets¹⁶.

The CPC might also supply authorisation to a concentration leading to a dominant position, if the concentration has the tremendous effects of modernising the applicable economic activity, improving market constructions and higher pleasant the interests of consumers.

The tremendous consequences outweigh the poor have an effect on on opposition in the relevant market.

There are no explicit criminal provisions on raising a failing/exiting company defence. The merging events might also do so, however the CPC has a discretion in assessing these considerations. All factual and legal movements related to the awareness are prohibited until the CPC has adopted a decision. The CPC might also impose measures immediately related to the implementation of the concentration that are necessary to hold fantastic competition and to limit the negative effects of the concentration on the applicable market¹⁷.

The PCA explicitly affords for period in-between measures and the energy of the CPC to impose redress to address opposition concerns when setting up violations and imposing sanctions. The CPC can impose fines of up to 10% of the aggregate turnover an project or association of undertakings for the preceding economic yr for execution of a concentration In addition, the CPC can impose fines of up to 1% of the aggregate turnover for the preceding monetary 12 months of an undertaking or an affiliation of undertakings for failure to provide: Undertakings that execute a attention earlier than the CPC has granted approval,

¹⁵ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 8.

¹⁶ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 8.

¹⁷ See T. Dimitrova, T. Mileva, A. Leshev. *op. cit.*, p. 9.

or accomplished a awareness that has been prohibited by means of the CPC, are concern to a excellent up to 10% of their mixture turnover for the preceding monetary year.

Undertakings that have failed to take a look at decisions or rulings of the CPC, or that have completed a concentration underneath conditions and in a manner one-of-a-kind than as approved with the aid of the CPC, are concern to a fantastic of up to 10% of their aggregate turnover in the previous economic year¹⁸.

In addition, under article 100 of the PCA, the CPC can impose periodic fines on undertakings or associations of undertakings of up to 5% of their common daily turnover for the preceding financial yr for every day of failure to observe a choice or ruling of the CPC until the illegal act or omission ceases.

CPC decisions can be appealed under article 64 of the PCA. Participants in the court cases can appeal choices within 14 days of their announcement under the Code of Administrative Procedure, while 0.33 folks who have prison activity have to lodge an enchantment within 14 days of publication in the CPC's public digital register¹⁹.

Significant amendments have been brought in respect of appeals in opposition to CPC decisions. Before these amendments to the PCA (in force from 1 January 2019), selections of the CPC had been concern to appeal before a panel of three judges at the Supreme Administrative Court, and first instance decisions were subject to enchantment earlier than a panel of five judges at the Supreme Administrative Court²⁰.

As of 1 January 2019, choices of the CPC, if now not otherwise supplied by means of the law, are subject to attraction earlier than the Administrative Court - Sofia District. However, first occasion choices are difficulty to appeal earlier than the Supreme Administrative Court.

Third parties who have a professional pastime can enchantment selections of the CPC inside 14 days of their ebook in the CPC's electronic register.

Bulgarian competition regulation does now not provide for any specific regulations in relation to restrictive provisions in agreements and their clearance²¹.

The CPC might also clear a concentration, even where it does lead to the introduction or strengthening of dominance, the place it objectives at modernizing the relevant economic activity, improving market structures, higher meeting the pastimes of consumers, and universal the fine effect outweighs any bad have an impact on on competition²².

¹⁸ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 10.

¹⁹ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 11.

²⁰ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 11.

²¹ See T. Dimitrova, T. Mileva, A. Leshev, *op. cit.*, p. 11.

²² See A. Chatalbashev, *Legal aspects of doing business in Europe*, p. 23.

The events may also offer and negotiate treatments that would convey the impact of the merger in line with the above rules, which when regular by using the Commission and covered in its decision will grow to be compulsory prerequisites connected to the clearance. Procedure Merger review goes in all cases through an preliminary section of 25 working days (extendable if treatments are offered), at the stop of which the transaction can also be cleared, situation to conditions and obligations, or the Commission may also declare that the transaction does now not characterize a notifiable concentration. If, on the different hand, the CPC has serious issues that the transaction may severely hinder competition, it can open an prolonged investigation procedure, which need to remaining a further 4 months (extendable in complicated instances and the place redress are to be negotiated)²³.

At the cease of the second-phase procedure, the Commission might also clear the transaction, problem a clearance challenge to prerequisites and obligations, or restrict the concentration. Sanctions Where the thresholds are met, the submitting with the Commission is mandatory. It need to be carried out upon the execution of the agreement on the transaction or the launch of the public offer, without in sure cases the place the events have managed to demonstrate their intention to accomplish a notifiable concentration, even before these events. If the events have failed to notify a transaction prior to its implementation, they would be concern to fines of up to 10 per cent of their mixture turnover for the preceding monetary year²⁴.

Fines in an amount of up to 10 per cent of the annual turnover can additionally be imposed if a concentration is performed below conditions and in a manner that differs from the ones notified to the Commission and on the foundation of which its clearance selection used to be issued, consisting of upon failure to honor commitments and tasks imposed, the attention is achieved in violation of an specific prohibition of the Commission; and the attention is accomplished in violation of the widespread suspension responsibility that applies prior to a clearance decision²⁵.

In addition, the Commission is entitled to impose a sanction to the amount of up to one per cent of the complete turnover for the previous monetary year for failure to cooperate with the concentration investigation, delay in the provision of statistics or the provision of incomplete, incorrect, untrue, or deceptive information and failure to notify the Commission of the performance of its choice in the term precise in it. The Commission might also also impose periodic sanctions of 5 per cent of the average day by day total turnover for the previous monetary yr for each day of failure to comply with conditions and tasks

²³ See A. Chatalbashev, A. Angelov, *op. cit.*, p. 24.

²⁴ See A. Chatalbashev, A. Angelov, *op. cit.*, p. 24.

²⁵ See A. Chatalbashev, A. Angelov, *op. cit.*, p. 25.

connected to a Commission's decision, and up to 1 per cent of the average daily total turnover for the preceding financial year for each day of failure to furnish complete, true, and non-misleading facts upon demand. Anti-Trust Prohibited Agreements and Abuse of Dominance In the place of prohibited agreements and abuse of dominant position, the Bulgarian competition authority applies both the PCA and European competition regulation.

3. Inspection Powers of the Commission

The PCA offers the Commission authority to make shock inspections (the so known as 'dawn raids') in agencies and premises in order to accumulate proof of infringements of Bulgarian and European anti-trust and merger manage law. An inspection requires, however, an authorization by way of a decide from the Administrative Court of Sofia City²⁶.

The Commission may enter any premises, ability of transport, and other places used through the undertakings and associations of undertakings, examine all books and records, related to the enterprise of the undertakings or associations of undertakings, irrespective of the medium on which they are stored, seize or achieve facts on hard, digital, or digital copy, copies of, or extracts from such books and records, irrespective of the medium on which they are saved or, the place this is impossible, seize the originals, as nicely as any other material evidence, seize or attain electronic, digital, and forensic evidence, consisting of visitors data, from all kinds of pc statistics carriers, pc systems, and other information carriers as nicely as capture the gadgets for transmission of information, receive access to all types of data carriers, including records stored on servers, handy by way of computer systems or different skill located in the inspected premises, seal for a positive duration of time any premises, potential of transport, and other sites, used by using the inspected undertakings or associations of undertakings, as well as commercial or accounting books or different information carriers; and Take down oral statements of any representative or member of the administration and team of workers of the undertakings or associations of undertakings, on occasions associated to the concern count number and motive of the inspection²⁷.

Any record or proof found may be seized if it incorporates information raising well - established doubts of other infringements under the Act or under articles 81 or 82 of the EC Treaty. Failure to cooperate can also lead to fines. Where a birthday celebration has impeded the series of data in respect of sure

²⁶ See A. Chatalbashev, A. Angelov, *op. cit.*, p. 28.

²⁷ See A. Chatalbashev, A. Angelov, *op. cit.*, p. 29.

facts, the Commission is entitled to anticipate that these facts have been proven, and base its decision upon them. Leniency Under the PCA, a leniency manner is handy to the instances of whistleblowing on a secret cartel or presenting large contribution to proving a cartel already discovered. The leniency coverage offers groups involved in a cartel both whole immunity from fines or a discount of fines which the Commission would have in any other case imposed on them. In order to reap total immunity underneath the leniency policy, a employer which participated in a cartel have to be the first one to inform the Commission of an undetected cartel via supplying ample facts to permit the Commission to launch an inspection at the premises of the corporations allegedly worried in the cartel. If the Commission is already in possession of adequate information to launch an inspection or has already undertaken one, the employer need to grant proof that enables the Commission to prove the cartel infringement²⁸.

In all cases, the organization must also thoroughly cooperate with the Commission at some stage in its procedure, furnish it with all evidence in its possession, and put an give up to the infringement immediately. The business enterprise may now not advantage from immunity if it took steps to coerce different undertakings to take part in the cartel. Where the undertaking assists the Commission however is now not the first to come forward, partial immunity may additionally be reachable below the phrases of the CPC's leniency program. Damages In addition to the sanctions that might also be imposed by the Commission, the events which have suffered damages from a violation of the PCA or European opposition regulation have the right to full compensation of the real cost of the damages suffered. The entitlement to full compensation extends now not solely to the genuine loss due to an anti-competitive price increase, however also to the loss of profit, however is confined to these damages which are a direct and immediate end result of the infringement²⁹.

4. The last evolutions

The law only entered into pressure at the stop of 2008, no fining decisions based totally on the new most satisfactory have but been adopted³⁰.

The regulation also presents for periodical sanctions in the case of non-conformity with a selection of the CPC obliging an venture to stop an infringement, fines of up to 5 per cent of the average each day turnover of the respective venture in the previous monetary year might also be imposed³¹.

²⁸ See A. Chatalbashev, A. Angelov, *op. cit.*, p. 29.

²⁹ See A. Chatalbashev, A. Angelov, *op. cit.*, p. 29.

³⁰ See F. Urlesberger, M. Papazova - Bulgaria, p. 46.

³¹ See F. Urlesberger, M. Papazova, *op. cit.*, p. 46.

In addition, the CPC has been vested broader investigative powers which correspond with the powers of the European Commission below Regulation No. 1/2003. The CPC may also request records and all types of (both electronic and hard copy) documents, behavior sunrise raids (with the prior permission of the Administrative Court of Sofia) and request records and help from the European Commission or other NCAs. The CPC may additionally now also difficulty provisional injunctions and can impose all kinds of measures that are essential to stop serious and irremediable injury (this additionally applies to different restrictive and abusive practices). These measures can be imposed for three months and may additionally be prolonged thereafter. The new most fantastic triggered the CPC to undertake a new word on the technique of settings fines.

In line with the competition authorities in different EU Member States, the CPC also brought a leniency programme. In February 2009, the CPC adopted a Notice on the Method of Settings Fines for Infringements of the LPC. The notice follows the notices of the European Commission and consists of elements of each the contemporary and the ancient notices of the European Commission³².

From the historical notice, the CPC copied the difference between minor, serious and very serious infringements. From the contemporary notice, it copied the device of calculating fines on the foundation of the relevant turnover, namely, the turnover from sales of the products, which are immediately or in a roundabout way affected or can be affected through the cartel in the territory of Bulgaria in the course of the closing monetary 12 months of the undertaking's participation in the cartel. The base quantity of the great (which will be extended by a time coefficient for the variety of years the respective undertakings participated in the cartel) will quantity to 10 per cent of the applicable turnover for very serious infringements, 8 per cent for serious infringements and 5 per cent for minor infringements (whereas beneath the European Commission's notice, the maximum base amount may additionally amount to 30 per cent of the relevant turnover)³³.

Finally, the great is improved or decreased taking into account anxious and mitigating factors. For associations that have now not gained any income, the pleasant can also amount to 150,000 levs. The CPC may also impose fines on people that cooperated with the cartel. The most fantastic is 50,000 levs and depends on the seriousness and the duration of the violation, the individual's role, property status, and mitigating and aggravating circumstances³⁴.

In 2007, the CPC commenced six investigations of suspected rate cartels, five of which additionally noticed the undertakings being raided via CPC officials.

³² See F. Urlesberger, M. Papazova, *op. cit.*, p. 46.

³³ See F. Urlesberger, M. Papazova, *op. cit.*, p. 46.

³⁴ See F. Urlesberger, M. Papazova, *op. cit.*, p. 47.

The investigations worried the sectors of milk and milk products, vegetable cooking oil, rooster and eggs, bread and confectionery, taxi services, and insurance. In all these cases, the CPC's investigations unveiled cartel agreements. The modern-day cartel proceedings had been instigated owing to suspected anti-competitive practices in the petrol sector. Five of these investigations have ended with fines being imposed. It is noteworthy that the CPC has now not shied away from fining market leaders³⁵.

The new law has abolished the notification gadget for restrictive agreements. Now, anti-competitive agreements that create countervailing efficiencies are exempt from the cartel prohibition and mechanically enforceable with no prior decision to this effect needed. Hence, the cartel prohibition pursuant to the law is utterly harmonised with Article 81 of the EC Treaty. Legal sure bet is safeguarded by means of a variety of block exemption regulations. Such guidelines exist for specialisation agreements, vertical agreements, agreements for lookup and development, and agreements in the motor vehicle sector. The CPC has additionally adopted rules on networks of vertical agreements with negligible effect on competition. In line with the European Commission's block exemption legislation for vertical agreements, a network of distribution agreements has negligible effects on opposition if the events to an settlement do no longer have an character market share of extra than 5 per cent and the network does not cover extra than 30 per cent of the relevant market. Furthermore, the market share thresholds for de minimis (horizontal and vertical) agreements have been delivered in line with the de minimis be aware of the European Commission³⁶.

Now, restrictive agreements are deemed now not to create an appreciable detrimental affect on opposition if in case of horizontal agreements the mixed share in the applicable market of the parties to the settlement does now not exceed 10 per cent, or in vertical agreements the person share does now not exceed 15 per cent in any applicable market. Abuse of a market dominant position The presumption of market dominance used to be removed in the law. Under the old act, market dominance was presumed when an challenge had a market share of 35 per cent. Now, the existence of market dominance is assessed based on an undertaking's market share, monetary resources, sources of supply, technological stage and family members with other undertakings³⁷.

The new LPC has additionally introduced a possibility to bring investigations of alleged anti - competitive practices to a rapid end with the aid of supplying commitments. Pursuant to the LPC, infringement court cases are divided into two phases. At the end of phase I (fact discovering phase), the respective task

³⁵ See F. Urlesberger, M. Papazova, *op. cit.*, p. 47.

³⁶ See F. Urlesberger, M. Papazova, *op. cit.*, p. 48.

³⁷ See F. Urlesberger, M. Papazova, *op. cit.*, p. 48.

will obtain a assertion of objections from the CPC if the compiled information point out an illicit behaviour. An undertaking can also then provide commitments to allay competition concerns, which the CPC can make binding. However, commitments are not a possible solution if the behaviour in query has a enormous and lasting poor have an effect on on competition inside a fundamental section of the country wide market. If the redress are approved, the CPC will terminate the lawsuits besides adopting a formal choice that establishes whether or not an infringement has occurred. The CPC can also resume complaints if the venture fails to adhere to the commitments; the occasions on which the selection was once based totally change, or the selection was once primarily based on incomplete, mistaken or deceptive information³⁸.

Conclusion

For the future, we can identify some directions to improve competition legislation in Bulgaria.

The first and is to add to Bulgaria's current commercial law specific rules prohibiting unfair trade practices, like in France and Hungary.

The second option is to enlarge the authority of the CPC to apply available legal instruments on unfair competition practices.

The third option is to set - up codes of conduct applicable to business relations.

Finally, the fourth option is to adopt national rules similar to EU rules in the field of unfair trade practices.

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³⁸ See F. Urlesberger, M. Papazova, *op. cit.*, p. 49.