

METHODOLOGY

On Investigation and Definition of the Market Position of Undertakings in the Relevant Market

GENERAL PROVISIONS

Object

This Methodology is designed to investigate and determine the market position of undertakings on the relevant market in relation to applying the provisions of the Law on the Protection of Competition (Published, State Gazette, issue 52 of 8 May 1998) to:

- agreements, decisions and concerted practices - art. 9 of the Law on the Protection of Competition;
- monopolistic and dominant position on the market - art. 16 and art. 17 of the Law on the Protection of Competition;
- concentration of economic activities - art. 21 of the Law on the Protection of Competition;
- other acts that might result in the prevention, restriction or distortion of competition as set out in the law.

With this Methodology the Commission seeks to make public and transparent its studies and investigations as well as its understanding of how the criteria and procedures in respect of identifying the relevant market shall be applied.

This will assist the undertakings in their decision making and in designing their market strategy (e.g. acquisitions, setting up of joint ventures or entering into certain agreements). The Methodology will enable them to understand better what type of information the Commission needs in order to identify the relevant market and carry out the necessary investigations.

Legal base

This Methodology is published in fulfillment of and pursuant to art. 7 (2) (1) of the Law on the Protection of Competition.

I. DEFINITION OF THE RELEVANT MARKET

1.1. Basic concepts - paragraph 1, (5) of the Additional Provisions of the Law on the Protection of Competition

The determination of the relevant market is the key instrument to establish and draw the borderlines of competition among undertakings with a view to identify in a systematic way the competitive environment in which they operate.

The determination of the relevant market provides the basis for assessing market shares, monopolistic and dominant position (art 18 of the LPC), concentrations (art.

21 of the LPC), agreements, decisions, concerted practices (art. 9 of the LPC). An undertaking is considered to have a dominant position where it has a market share exceeding 35 per cent of the relevant market and a group of undertakings is considered to have a collective dominant position where it has a market share higher than 50 per cent.

It shall be borne in mind that the concept of the relevant market differs from the concepts of market used in other cases. For instance, undertakings often use the term “market” to describe the territory where their products are sold or to refer broadly to the industry or sector they belong to.

The relevant market in which the conditions of competition are assessed consists of a product and geographical market.

The **product market** comprises all those goods and services which the consumers may regard as mutually substitutable in terms of their characteristics, prices and intended use.

The **geographical market** comprises a specific area on which the respective mutually substitutable goods and services are being offered and in which the conditions of competition are the same but differ from those of neighbouring regions.

Application of the relevant market concept may produce different results due to the nature of the specific competition issues which are being considered by the Commission.

Thus, the scope of the geographical market may vary depending on whether the survey covers a future concentration (in this case the analysis is essentially prospective) or whether past behaviour of market participants is being analysed - in case of abuse of dominant position or conclusion of prohibited agreements between undertakings.

1.2. Conditions of Competition

The undertakings are exposed to three main sources of competitive pressure: demand substitutability, supply substitutability and potential competition.

1.2.1. Demand Substitution

From an economic point of view, for the definition of the relevant market, the most immediate and effective disciplining force on the behaviour of the suppliers of a certain product is the demand substitutability.

An undertaking (or a group of undertakings) cannot have a significant or prevailing impact on the conditions of sale, on prices in particular, if its clients (consumers) can easily switch to a substitute product or supplier from a neighbouring geographical market.

The main purpose of defining the relevant market is to establish whether the consumer does have an effective alternative choice for a specific product in a specific geographical area.

Assessment of the demand substitutability entails a determination of the range of products which are viewed as substitutes by the consumer. To this end, an assessment is made of the likelihood the consumer to reorient his demand to another product in response to a hypothetical small but constant increase of the prices of products under consideration.

It is mandatory to start the analysis by singling out the types of products and the geographical area in which the participating undertakings carry out trade operations. At this stage, an assessment is made of what additional products and areas may be included in or excluded from the market. This judgment depends on the extent to which the competition of these other products and areas will affect or restrict sufficiently the short-term increase of the prices of products.

The question to be answered is whether the consumers are capable of or ready to shift their demand to other products or suppliers located in other areas, in response to the hypothetically small (5-10%) but permanent increase of prices of products under consideration. Should such mutual substitutability prove sufficient to render price increases unprofitable due to losses incurred as a result of lower sales, the additional interchangeable products and areas are included in the relevant market.

Example: The consumers of drink A may be approached with the question: "Would you give up drink A if its price increases over an extended period of time by 5 to 10 per cent and would you switch to buying other soft drinks?" If a significant number of the consumers give an affirmative answer that they would change over, for instance, to the consumption of soft drink B, that would imply that the increase of the price of drink A will not be profitable and will lead instead to reduced sales and hence to losses. In this case the product market will consist of, at least, product A and B. This method of assessment should cover also other soft drinks until all drinks have been identified in respect of which the price increase would not induce a significant substitution in demand.

1.2.2. Supply Substitution

Supply – side substitution can also be taken into consideration, provided it has the same implication as substitution in demand - if the suppliers are in a position to start in the short-term and without substantial additional costs the production of the product under consideration in response to the small and permanent increase of its price. When these conditions are met, the probability of manufacturing additional products will have a disciplining (containing) effect on the competitive behaviour of the undertakings on the relevant market.

Example: Supply substitution is possible in the paper production. Paper is normally supplied in a wide variety of quality, ranging from standard writing paper to high quality paper used in the publication of books of artistic lay-out. From a demand point of view, different qualities of paper are not mutually substitutable, i.e. paper of poor

quality cannot be used for publishing books of artistic lay-out. However, if the manufacturers (plants) are technologically equipped to produce paper of different quality and if under the impact of demand they can produce that paper within a short time-frame and at acceptable cost, it may be assumed that supply substitution exists.

When the supply – side substitutability requires the undertakings to make significant additional expenditure for tangible and intangible long-term assets, additional investments, strategic decisions or time delays, it may be assumed that no supply – side substitution exists.

Example: In the production of branded beverages the manufacturers may, in principle, produce drinks of different quality, however at substantial additional costs and following a long period of time (for advertising, product testing and distribution). In this case, it cannot be assumed that in terms of competition there is an effective supply – side substitutability.

The relevant product market encompasses all products which are mutually substitutable in terms of supply and demand. The sum total of their current sales over a certain period of time expressed in physical and value terms, determines the overall market volume. The same approach can be applied in identifying and grouping geographical areas.

1.2.3. Potential Competition. Barriers to Entry.

Potential competition is the third source of competitive constraint and falls within the scope of application of art. 1 (2) of the Law on the Protection of Competition. This competition is viewed as a deterring factor since it could activate competition even for undertakings with dominant and monopolistic position. It is analysed on a case by case basis and the assessment of its effectiveness depends on the analysis of specific additional factors related to the so-called barriers to entry in the relevant market. If required, the analysis is carried out at a subsequent stage, once the positions of the undertakings involved in the relevant market have been ascertained.

The barriers to entry are conditions that inhibit or prevent the entry of new undertakings in the relevant market. The presence of significant barriers allows more room for manoeuvre and hence for establishment of a dominant position of undertakings which are already in the market, since the possibility and the likelihood of entry of potential competitors is relatively limited.

The barriers to entry are of economic and legal nature. Usually, they do not rule out completely access to the market, though they inhibit it due to:

- significant sunk costs;
- considerable period of time needed to enter;
- lower possibilities to achieve favourable economic results compared to undertakings already established in the market.

The conclusions from the analysis of existing barriers should provide an answer to the question whether the existing threat of widening competition discourages the

participants in the relevant market from increasing the prices in the cases laid down in art. 18 of the Law on the Protection of Competition.

Further, economic barriers can be divided into structural and strategic ones.

Structural Barriers

Structural barriers are, to some extent, of an objective nature and are a product of the competition structure and the status of the relevant market in terms of product technology, volume and features, supply and demand.

Initial Costs

These are, first and foremost, the initial capital investments needed to organise the respective production, which may vary substantially for different potential competitors. Much of these costs are difficult to recover and pose additional risks to potential competitors who might wish to enter the market.

The size of barriers is measured by the value of long-term tangible assets of undertakings present in the market per unit of output, and by the amount of market research and legal, financial and accounting consultation, etc.

Economies of Scale

New entrants gain initially relatively small market shares and incur substantially higher production costs per unit of output compared to those of undertakings already established in the market. The economies of scale limit the number of undertakings that can operate at minimum cost in a market of a given size.

Product Differentiation

The high product differentiation favours undertakings already established on the market, because the new entrants have to overcome the established consumer loyalty to brands loyalty. This entails also for considerable costs for advertising, promotion, etc. of newly supplied products.

Innovation Capabilities

The high technological level of undertakings already established in the market, as well as their research and development activities, enable them to renew and improve the quality of their output much faster than the new entrants. These capabilities, which also represent a barrier to new entrants, can be assessed in terms of the undertakings' long-term non-tangible assets: patents, licenses, concessions, know-how, trade marks, software, etc.

Level of Supply and Demand

The high degree of market supply, on the one hand, and the low effective demand of buyers which limits demand, on the other, is also a significant barrier to entry of potential competitors. The importance of this barrier is assessed in perspective, i.e. in terms of the possibility of demand increase both as a result of reducing the product price and of increasing the need for it.

Strategic Barriers

The strategic barriers to entry occur as a result of actions of undertakings already established in the market. These barriers include, first and foremost, different types of agreements for supply of raw materials and for sale of output.

Such barriers are posed also by the presence of large unused production capacities, which enable sharp increases in the volume of output and reduction of product prices and constitute a real threat to potential competitors in case of their entry in the market.

Legal and Administrative Barriers

These barriers concern the existence of primary and secondary legislation, administrative provisions, instructions, orders, etc., which restrict to some extent the market access of potential competitors or their future behaviour. These barriers include:

- licensing regime or any other authorisation regime ;
- customs restrictions and charges;
- production and sales quotas;
- restrictions deriving from the lending, taxation and pricing policies of the Government;
- restrictions on the use of certain energy and raw-material resources;
- restrictions related to pollution of the environment.

This list of barriers is not exhaustive. During the analysis, these barriers are reviewed in a comprehensive manner.

Market access shall be considered restricted provided that more than a year (according to potential competitors) is needed to overcome even one of the above barriers to market access.

Barriers to entry in the relevant market shall be regarded as high, provided no new competitors have appeared or have appeared incidentally, over the previous three years, regardless of the high rate of return.

1.3. Defining the Relevant Market.

Product Market (# 1 (5) (a) of the Additional Provisions of the Law on the Protection of Competition)

The Commission considers the following types of evidence as relevant for the assessment of the demand substitutability between two products:

Evidence of substitution in the recent past.

In some cases there may have been a shock in the market in the recent past which could furnish actual examples of substitution of two products. Information of this type may be used as a basis to define the market. Products are also deemed to be substitutable if there have been recent changes in their relative prices (whereas prices were the same before), which have led to changes in demand. Information pertaining to the placing of new products in the market is also analysed. In this case it is possible to establish which products have lost sales to the new product.

Different quantitative tests are also used to differentiate (determine) product markets. For this purpose a variety of statistical and econometric approaches may be applied, such as evaluation of elasticities and cross-price elasticities for the demand of a product; dynamics of prices in different geographical areas and the reasons for that, similar price movements over a period of time, etc.

The specific types of evidence are determined exclusively by the characteristics and specifics of the industry and the products under consideration. The Commission will apply an open approach to empirical evidence so as to make effective use of all disposable (available) information which has a bearing on the case under review.

Geographical market (#1 (5) (b) of the Additional Provisions of the Law on the Protection of Competition).

An initial hypothesis about the geographical market is formed on the basis of indicators concerning the distribution of market shares of undertakings and their competitors, analysis of price differentiation (difference) between the national market and the respective geographical area. The study involves every specific link in the configuration of prices, market shares and geographical areas.

Undertakings may have a large market share of the national or of individual regional markets alone. The initial working hypothesis is checked by means of the characteristics of demand (importance of national or local preferences, snapshot of purchases, product differentiation, trade mark, etc.). This is done for the purpose of finding out whether undertakings from different geographical territories (areas) represent alternative sources of supply to consumers. This theoretical experiment is based again on the mutual substitutability in the event of changes in the relative prices. It is necessary to answer the question whether consumers will switch their demand to undertakings located in neighbouring geographical territories (areas) in the short term and at a negligible cost.

This analysis includes by definition a survey of the conditions for access to the distribution network, the costs for setting up a distribution network, the presence or absence of regulatory barriers to entry, price regulation, quota or tariff restrictions in trade and production, technical standards, authorisation requirement (licensing), etc.

This implies that the Commission will determine and analyse the existence of barriers which isolate the undertakings in a specific geographical territory from the competitive constraint of undertakings located outside that territory.

The snapshot of purchases and the dynamics of trade flows offer additional accompanying identification both of the economic weight of all factors (listed above) and of the extent to which they may or may not constitute a barrier that restricts different geographical markets. The analysis of the movement of trade flows is based on the value of transport costs and the extent to which they may inhibit trade among individual geographical territories. The location of manufacturing plants, the costs of production and the relative price levels of products may be taken into account.

Evidence collected by the Commission in the process of determining the geographical market can be grouped in the following categories:

- evidence about the product distribution in other areas over previous periods of time. In some cases it is possible to use data about price changes in different areas and the reaction of clients (consumers);
- basic characteristics of demand. The nature of demand for a certain product may determine the geographical market;
- evidence about clients and their purchases. In these cases, in order to identify the boundaries of the geographical market in a better way, information about trade flows and other statistical data about the movement of goods may be used in the analysis;
- evidence about existing barriers to the entry of undertakings from neighbouring geographical territories (areas).

Where entry in a certain geographical market is associated with high transport costs, it may be assumed that they constitute a barrier to entry in that geographical market. The impact of transport costs may determine the boundaries of the geographical market, especially in respect of bulky low value products. Access to distribution markets, regulatory barriers, quotas and customs tariffs may also pose barriers to entry, which restrict individual geographical markets.

The definition of the geographical market may be influenced by existing high transport costs. In these cases, supplies from a plant will be confined to a specific territory which constitutes a separate geographical market. However, if other manufacturing plants are located in a neighbouring territory, the geographical markets may overlap. The formation of prices of products there will be placed under the pressure of the chain effect of substitution from neighbouring territories. This will lead to a broader definition of the geographical market. From a practical point of view, the concept of chain substitutability has to be borne out by concrete evidence, for instance, the price levels at the border of different territories in the chain must be comparable.

A major criterion for the existence of a uniform and independent geographical market exists is the presence of identical economic conditions for all of its participants. Therefore, it is possible for the boundaries of the geographical market not to coincide with those of the country, the region or the area (city).

The Commission will determine the geographical market, pursuant to the Law on the Protection of Competition, not on the basis of the administrative or other boundaries (national, regional, district, municipal) but in accordance with the specific circumstances of the case under consideration as analysed in the way described above.

1.4. The Process of Collecting Evidence.

In the process of investigation the Commission will establish contact with the main consumers and undertakings from the industry, in order to seek and study their assessments and opinions about the boundaries of the product and geographical market.

At its discretion, the Commission may request the opinion of the respective professional and branch unions and associations, and where this is necessary for the purpose of differentiating products and geographical territories, it may also seek the opinion of undertakings involved in the distribution of these products. It may request further information from the participating (interested) undertakings, as well.

Pursuant to art. 41 (1) of the Law on the Protection of Competition, the Commission may approach the participants in the market with written requests (questionnaires). These requests usually consist of questions for the purpose of obtaining opinions and information about the substitutability of products, methods of distribution, contracts concluded, relations with suppliers and clients, price and market policies of undertakings, response of undertakings to hypothetical price increases for certain products, their opinion about the boundaries of the relevant market, etc.

In order to establish how suppliers and consumers negotiate and interact and to get a better understanding of issues related to defining the relevant market, the officials from the Commission shall carry out visits on the premises and shall request the undertakings to provide oral and written explanations, as well as documents and other information media.

The managers of undertakings cannot deny access to information on grounds of official, industrial or trade secrets (art.41 (3) of the Law on the Protection of Competition).

The Commission receives for the purposes of its specific analyses information collected and processed by the National Statistical Institute.

In a number of cases, especially those involving analyses of abuse of dominant and monopolistic position, the period of adverse effect on competition is also taken into consideration. In principle, the Commission considers cases within a period of one year - the accounting financial year of an undertaking.

Some cases related to the nature of products may be considered over shorter periods of time, i.e. a season, duration of campaigns, exhibitions, etc. The Commission shall

not tolerate abuse of monopolistic or dominant position because of the short duration of the infringement.

II. ANALYSIS OF THE STRUCTURE OF THE RELEVANT MARKET

2.1. Participants in the Relevant Market

In the process of identifying the participants in the relevant market, the Commission appraises the following main parameters on a case by case basis:

All operating undertakings - “effective” competitors within the already established boundaries of the relevant market. The following parameters have to be clarified:

- production capacity and the extent to which it is utilised for manufacturing the products and services under consideration and the possibilities for supplying their substitutes;
- sustainability of the relevant market over the last two accounting years and over a future period of one year;
- possible response of the undertaking under consideration to competitive pressure and its potential to prevent, restrict or distort competition in the relevant market. The undertaking’s capability to emerge as a “price leader’ should also be assessed;
- undertakings - “potential” competitors, which might enter the relevant market, bearing in mind the existing barriers to entry.

Market participants are divided by economic sector, and the latter are subdivided into branches, groups and classes depending on the homogeneity of the products and services. Criteria of homogeneity are based on similarities in production methods, inputs, intended economic use of the product or service. These criteria provide the basis on which the National Branch Classification establishes branch systems of varying degrees of aggregation, within which the undertakings operate, ranging from highly specialised, single-activity undertakings to undertakings performing highly aggregated (both horizontally and vertically) economic activities.

Proceeding from this general rule, the investigations should take into account the following specifics:

In the material sphere, regardless of the large diversity of activities and the presence of approximately 75 branch clusters (from mining, floatation, turning of coal into briquettes, via the ferrous and non-ferrous metallurgy, machine building and chemical production, up to construction, types of transport, telecommunications, utilities, etc.), the numerous undertakings participating in the relevant markets are relatively more easy to identify on the basis of the homogeneity of the goods and serviced they produce.

In the financial sphere there are only three branch clusters: financial intermediaries, insurance, auxiliary activities related to the financial intermediaries, insurance and pensions.

In these sectors, the participants in the relevant markets are relatively fewer compared to those in the material sector, however they are marked by substantial specifics in their objects. They include:

- banks under art. 1 of the Law on Banks. Included also are the non-banking institutions performing financial leasing operations, acquisition and management of stakes, securities and custodial services, factoring, consultancy and services related to the transformation and acquisition of companies, foreign exchange transactions;
- insurance undertakings, investment intermediaries, investment companies and privatisation funds, social and health insurance funds which carry out transactions under special laws.

The number of undertakings in the relevant material and financial sphere markets does not afford full and reliable conclusions about the nature of competition among them, except for the cases, where the number of participants is too low. Therefore, the market shares of the participants in the relevant market have to be determined.

2.2. Market Shares of the Participants in the Relevant Market

The market share of an undertaking plays a significant part in determining its position in the relevant market. It is legally binding to calculate market shares in respect of concentrations under Chapter Six of the Law on the Protection of Competition, and where necessary, in respect of agreements and decisions under Chapter Three and in determining dominant position under Chapter Four.

The Material Sphere

Information in value and real terms about the sales of a product or service in the respective geographical market is used to determine the market share of the participants - competitors in the relevant markets, from the industry, agriculture, forestry and the services.

The total volume of the relevant market is determined by the following formula:

$$P\Pi p = \sum_{i=1}^n P_i,$$

where:

$P\Pi p$ - is the total volume of the relevant market;

P_i - volume of sales of the i -th participant in the relevant market;

n - number of participants in the relevant market

The market shares of individual participants in the relevant market are determined on the basis of these sales by the following formula:

$$\Pi \Delta_i = \frac{P_i}{P\Pi p} \times 100 [\%]$$

The following specifics should be taken into consideration in calculating the market share:

Natural measures (kg, liters, meters) are to be preferred in determining the sales of homogenous products and services. This method of establishing the volume of the relevant market and the shares of the participants in it is particularly suitable for industrial products included in the material balance sheets prepared by the National Statistical Institute.

In some cases, the market share calculated on the basis of natural measures may differ from a market share calculated on the basis of value measures. This calls for a new definition of the market and for establishing whether the consumers regard the goods and services under consideration as substitutable.

There are two options for calculation in respect of non-homogenous products and services in the relevant market:

- the volume of sales is calculated in terms of value;
- where the product under study is in nominal units (i.a. ton of equivalent fuel, ton-kilometer), the estimate is based on them.

Where the market share of other branch clusters under the National Branch Classification is calculated, such as publishing, urban water distribution and water supply, specialised trade in vehicles, fuel and lubricants, hotel, tour-operator and travel agency business, types of transport and cargo handling, warehousing, etc., a choice is made between natural and value measures, depending on the specificity of activities.

Financial Sphere

The above-mentioned formulas shall apply in respect of concentrations of banks and non-banking financial institutions, and of insurance undertakings (art.24 (3) of the Law on the Protection of Competition). In this case, however, the volume of sales is supplanted by:

- the balance-sheet assets (balance-sheet figure) of banks and non-banking financial institutions;
- the sum total of insurance premiums (contributions of insured persons) under Title I of the Profit and Loss Account of insurance undertakings;
- the sum total of pension contributions, i.e. of contributions made by employers and/or individuals into a pension fund for the purpose of meeting future obligations to pay pensions, of pension funds.

In addition to being used for the purpose of specific studies, including those of concentrations, the estimated market shares of banks and insurance undertakings can also be used to provide ratings of these institutions in the relevant market.

Market shares of the participants in the capital markets are determined:

- for investment intermediaries - by the volume or total amount of concluded transactions, to which it is possible to add (provided there is

information) the volume of consultancy services, the volume of managed investment portfolios, the volume of obtained issues of securities (a natural or value measure is chosen on a case by case basis);

- for investment companies - by the volume of investments made by them (their balance-sheet assets, respectively).

Specifics in the Estimation of Market Shares

The size of market shares is estimated for the purpose of evaluating the anticompetitive impact of the undertaking under consideration on the relevant market. Besides, the potential for changes in the market should also be taken into consideration. For instance:

- an undertaking having a large market share in a dynamically-changing market may not have a dominant position, in view of the fact that its large market share is temporary, i.e. until new competitors emerge;
- a participant with a market share below 5 per cent of the relevant market, should be regarded as a case of insignificant impact on competition.

In respect of concentrations, agreements, decisions and concerted practices which restrict competition, an aggregate market share is calculated by summing up the market shares of each participant in the relevant market of products and services.

Where the study establishes a trend of shrinking market shares of large undertakings as a result of increasing shares of smaller ones and entry of new companies in the market, it can be assumed that large undertakings are losing market strength and are subjected to effective competition.

Market shares are calculated on the basis of official statistical and accounting information and on the answers provided by the participants in the relevant market. This information has to cover the respective current accounting period and the two preceding accounting years.

Although the market share is the main measure of presence on the relevant market, its size is not always a sufficient condition to accept as certain the presence (absence) of significant market presence.

The Commission shall assess not only the presence of a market share exceeding 35 per cent (art.17 (2) of the Law on the Protection of Competition) but also whether an undertaking having a dominant position might render negative impact on the other participants in the relevant market.

The Commission assumes that maintenance of a market share higher than 70 per cent over a sufficiently long period of time is sufficient proof that there is a dominant position. Where the market share ranges between 20 and 70 percent of the relevant market, an undertaking is likely to have a dominant position. An additional investigation is conducted in order to prove that by means of analysing also the ratio between the market shares of the leading undertaking and those of its competitors, potential competition due to surplus production capacity, sustainability of the market share of the undertaking having a dominant position in the longer term, dynamism in the market share over a certain period of time, existing barriers to entry.

Data about the structure and the resources of the undertaking which is being analysed do not provide per se sufficient proof to assume that it has a dominant position. Therefore, further analysis is made to establish whether the undertaking has:

- technological advantage over its competitors;
- commercial advantages, such as a better-known trade mark and a very well organised distribution network;
- large production capacity and greater investment capabilities compared to its competitors;
- advantages related to access to inputs;
- financial resources;
- opportunities to spread risk over other production activities.

2.3. Turnover of the Participants

The turnover of the participants in a concentration (art. 24 (1) (2) of the Law on the Protection of Competition) is determined on the basis of the net income from the sale of products and goods (hereinafter referred to as goods) and from the performance of services. Total sales are derived from item “Operating Income” of the Profit and Loss Account of undertakings. (Annex 2 of art.40 (1) (2) of the Law on Accounting). Net income from sales is net of indirect taxes (VAT, excise duty), and commercial discounts.

In principle, the method of calculating the turnover for services provided, does not differ from the one used for sale of goods, i.e. it includes the total amount from the sale of goods over the last financial year. This principle has to be adapted to take account of the specifics of some types of services. For instance, some services in the sphere of tourism and advertising can be provided through intermediaries, The turnover of the intermediary may consist solely of the amount of the commission received for his services.

Total sales used to calculate the turnover should reflect the “ordinary business” of the participants in the concentration.

It is obligatory to include in the calculation of the turnover any aid granted to the undertakings by state or local authorities (in the meaning of art. 20 of the Law on the Protection of Competition) with direct effect on the prices of goods or services. For example, aid intended for the consumption of products, enable the producer to get a higher price than the one paid by the consumer.

The turnover that has to be taken into account is the “net” turnover, obtained after a number of components have been deducted. This is done for the purpose of assessing the true economic weight of an undertaking.

Sales rebates, value added tax and other taxes of a directly related to the turnover are deducted.

Sales rebates consist of all discounts granted by undertakings during business negotiations with clients which have a direct impact on the amounts of sales.

The aggregate turnover of the participants in a concentration does not include “internal turnover”, i.e. total sales of goods and provision of services among connected undertakings (e.g., the parent company and its subsidiaries). The aim is to avoid double counting, by excluding transactions concluded within the group, and to get a clear idea about the economic weight of each unit. The aggregate turnover consists of the sales performed by the group of undertakings to third parties.

Calculation of Aggregate Turnover of Participating Undertakings

Usually, on the date on which a deal is concluded, there are no audited accounts (by a certified accountant or specialised audit undertakings). Therefore, the aggregate turnover is calculated by summing up the turnovers of the participants in the concentration for the most recent financial year.

Where the concentration is established in the first months of the year and the accounts for the previous financial year have not been audited yet, data from the last certified accounts shall be applied. Where large differences exist in the turnover calculations for the two years, the Commission may take them into account by making a reasoned decision.

Acquisition of Part of Companies or Establishment of Control

Where a concentration is due to an acquisition of a part of an undertaking, only its turnover is taken into account, regardless of whether that part is an autonomous legal entity or not.

Staggered Transactions

Where an undertaking acquires by means of two or more transactions, carried out over a period of two years, direct or indirect control of one or more undertakings or parts thereof in the meaning of art. 21 (2) of the Law on the Protection of Competition, all these transactions shall be counted as one. It shall be considered a concentration as of the date of the last transaction.

Example: Undertaking A buys a subsidiary of undertaking B, which constitutes 50 per cent of all the assets of undertaking B. A year later, undertaking A acquires the remaining 50 per cent of B. In this case, if the turnover on the first transaction was below 15 bn, but together with the turnover on the second transaction carried out within a two-year period it exceeds that threshold, the two transactions shall be considered as one.

Turnover of an Economic Group

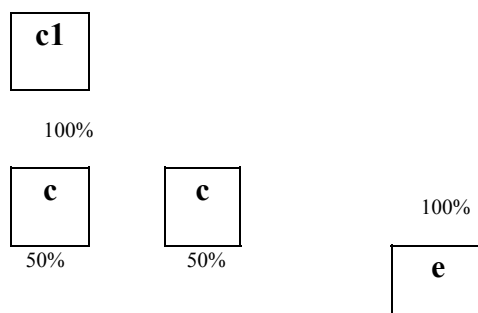
Where a participant in a concentration belongs to an economic group, the assessment whether the threshold under art. 24 of the Law on the Protection of Competition is exceeded shall be made on the basis of the turnover of the whole group. This is done for the purpose of estimating the total volume of the economic resources which will be pooled together as a result of the pending concentration.

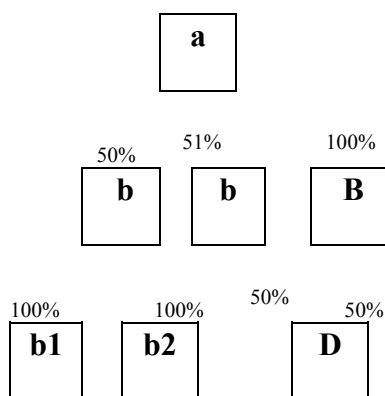
The aggregate turnover in the meaning of art. 24 (1) and (2) of the Law on the Protection of Competition is calculated as a sum total of the turnovers of the:

- a) participating undertaking;
- b) undertakings where the participating undertaking either directly or indirectly:
 - owns more than half the capital or business assets, or
 - has the power to exercise more than half the voting rights, or
 - has the power to appoint more than half the members of the supervisory board, the administrative board, or bodies legally representing the undertaking, or
 - right to manage the undertaking's affairs.
- c) undertakings, which have in the undertaking the rights or powers listed in (b);
- d) undertakings, in which the undertakings under (c) have the rights or powers listed in (b);
- e) undertakings, in which two or more undertakings which meet the conditions under (a) to (d), jointly have the rights or powers listed in (b).

This means that the turnover of the undertaking directly involved in the concentration transaction (a), should include its subsidiaries (b), its parent company (c), other subsidiaries of its parent company (d) and another undertaking, which is jointly controlled by two or more undertakings belonging to the group (e).

This can be illustrated as follows:





- the undertaking concerned;
- its subsidiaries or subsidiaries to its subsidiaries (b1 and b2);
- parent undertakings or a parent undertaking of its parent undertakings (c) and (c1);
- other subsidiaries of the parent undertakings (d);
- undertakings which are jointly controlled by two or more undertakings of the group (e).

The following remarks can be provided on the above scheme:

Where control is exercised in the meaning of (b), the total turnover of the subsidiary should be taken into account, regardless of the actual shareholding of the controlling undertaking. The example should include the aggregate turnover of the three subsidiaries (b) of the participating undertaking (a).

Where some of the undertakings, defined as belonging to the group, control other undertakings as well, the latter should be included in the calculation. In the example, one of the subsidiaries of (a) has its own subsidiaries (b1) and (b2).

Where two or more undertakings jointly manage the participating undertaking (a), in the sense that the agreement of each one of them is required in order to manage the undertaking's affairs, their turnover should also be added in the total amount. In the example, the turnover of the two parent undertakings (c) should be included in the calculation, as well as the turnover of their parent undertaking (c1).

Any intra - group sale should be subtracted from the aggregate turnover. This is done for the purpose of avoiding double counting of one and the same transaction.

2.4. Financial Standing of the Participants in the Relevant Market

Part of the broad range of indicators of financial and accounting analysis, provided for in the National Accounting Standard 13, are applied in assessing the financial standing of undertakings. These indicators and the relevant ratios are disclosed by the undertakings in an annex to the Annual Report.

The indicators applied for the purpose of analysing undertakings cover the following three areas:

- profitability;
- liquidity;
- financial autonomy.

There are two types of indicators according to the method used for their calculation - indicators of structure (values of one and the same period are used) and indicators of dynamics. Therefore, it would be better to compare the proposed financial ratios with those of other undertakings in the relevant market or the whole sector group.

The Commission accepts the following indicators of financial strength:

Indicators of Profitability of Undertakings

Profitability is the ultimate goal and a sign of the successful business of undertakings. It shows the undertaking's ability to generate benefits for its owners and the capacity of the capital to produce results.

The following ratios can be used for the purpose of the analysis:

Rate of Return on Sales, defined as a ratio of financial results (profit, loss) to net income from sales in the Profit and Loss Account.

Rate of Return on Equity, defined as a ratio of net income to shareholders' equity in the liabilities side of the Balance Sheet.

Profitability ratios can be either positive or negative values depending on whether the financial result is a profit or a loss.

Profitability ratios should be considered in conjunction with the other indicators of the undertakings' economic standing. A lower profit or even temporary losses are not incompatible with the monopolistic or dominant position of an undertaking, while considerable profit may be derived under conditions of effective competition, as well.

Indicators of Liquidity of Undertakings

Liquidity measures the undertakings' ability to meet its current liabilities from its current assets. For the purpose of the analysis one may choose from the following ratios:

Current Ratio, computed by dividing the undertaking's total current assets (net of pre-paid expenses) by its total balance-sheet current and long-term liabilities.

Quick Ratio, computed by dividing the sum total of the undertaking's short-term receivables, short-term investments and cash by the sum total of its balance sheet current and long-term liabilities.

High values of the above liquidity ratios of an undertaking (in statics) and their increase (in dynamics) indicate high level of its financial stability.

Indicators of Solvency of Undertakings

They are used to measure the degree of independence from creditors and the solvency of an undertaking. For the purpose of the analysis one may choose from the following ratios:

Solvency Ratio, computed by dividing the equity of an undertaking by its total liabilities.

Debt to Equity Ratio, computed by dividing the total liabilities of an undertaking by its total equity.

A good level of solvency guarantees to the owners and the creditors that the undertaking is far from bankruptcy. A low level of solvency signals potential or real financial problems.

Other indicators may also be used to determine the financial standing of financial institutions. They are provided for in the existing legislation on banks, insurance undertakings and companies. Because of their complexity, during the surveys these indicators have to be derived from the relevant accounting statements and the annexes thereof.

Capital adequacy and liquidity are major indicators of the financial strength of banks.

According to BNB Regulation No.8, capital adequacy is the amount, the structure and the ratios of equity of local banks and of branches of foreign banks established here to their balance-sheet assets. This ratio is defined also as asset coverage. Several statutory requirements have to be complied with in calculating this ratio:

- paid-in capital at the time of issuing the bank's license should not be lower than BGL 10 bn (art. 2 (1) of Regulation No.8);
- the same amount of own funds (capital base) should be at the disposal of the bank at all times (art. 2 (2)of Regulation No.8);
- the statutory ratios between equity (or primary capital) and total exposure;

The requirement to maintain sufficient liquidity makes it incumbent upon banks to manage their assets and liabilities in a manner that will enable them to meet on a regular basis and without delay their day-to-day obligations, both in a normal banking environment and in conditions of crisis.

The liquid asset ratio may be used in the surveys, i.e. liquid assets as a percentage of funds attracted by the bank (deposits). It indicates whether the bank maintains sufficient liquid assets (cash in hand, deposits in BNB accounts and in current accounts in other banks, treasury bills, etc.).

Apart from the above measures of capital adequacy and liquidity, bank's estimates of profitability and the provisions set aside (against the principal of an exposure) to cover the risk of loss, may also be used in the surveys.

The following additional indicators may be used to determine the financial standing of banks:

- relative share of credits to non-financial institutions and other clients of each bank in its own assets;
- relative share of credits to non-financial institutions and other clients of each bank in the total volume of credits provided by the financial sector (the banks);
- achieved rate of investments in credits at the expense of attracted funds;
- relative share of sales/ purchases of cash in leva in the total volume of sales/ purchases, which could rank the participants in the market, whose volumes and average interest levels would serve as a basis to determine the market interest rate for the Bulgarian lev.

The financial strength of insurance undertakings may be estimated on the basis of the solvency threshold they submit together with their annual report.

Despite the variety of methods allowed by the regulatory framework, the solvency threshold is computed, in principle, by subtracting the amount of the intangible assets, which the insurance undertaking needs in order to meet its contractual obligations in the long term, from the minimum amount of its own funds. The guarantee capital accounts for one third of that threshold.

The financial strength of investment intermediaries and investment companies is established on the basis of their statements on capital adequacy and liquidity (based on their balance sheets).

In the process of studying concentrations, the following comparisons are drawn:

- financial standing of participants prior to and after the concentration;
- financial standing of the undertakings participating in the concentration compared to that of other undertakings in the relevant market.

2.5. Indicators about the Structure of the Relevant Market

2.5.1. The Herfindahl-Hirschman (H) Index

It is computed according to the following formula:

$$H = \sum_{i=1}^n P_i^2$$

n - number of participants in the relevant market;
 P_i - market share of i -th participant (%).

The index indicates the level of concentration of the relevant market and ranges from values close to 1 (in case of ideal competition and large number of participants in the market) to 10 000 (in case of one participant in the market).

The level of concentration in the market is characterised as follows:

$H < 1000$ - normal competitive market with low level of concentration. In this case, concentrations among the participants are not restricted.

$H = 1000 \div 1800$ - relatively competitive market with average level of concentration. Concentrations where the value of H does not increase by more than 100 points are allowed.

$H > 1800$ - poorly competitive market with high level of concentration. Concentrations may be allowed only after a detailed analysis and assessment of every individual case vis-a-vis its impact on competition.

2.5.2. Relative Share of the Largest Participants in the Market (CR - Concentration Ratio)

Unlike the Herfindahl Index, the Concentration Ratio (CR) does not refer to the entire market but only to the position of its largest participants:

$$CR_k = \sum_{i=1}^k P_i$$

K - number of the largest participants in the relevant market (participants with the largest market share);

P_i - market share of the i -th participant (%).

The value of K may vary, but normally it is assumed that $K = 3$ and $K = 4$.

Three types of market can be identified on the basis of CR_3 and CR_4 :

- normal competitive market, where $CR_3 < 40$ and $CR_4 < 50$;
- relatively competitive market with average level of concentration, where $CR_3 = 40 \div 70$ and $CR_4 = 50 \div 85$
- poorly competitive market with high level of concentration, where $CR_3 > 70$ and $CR_4 > 85$

2.5.3. The Lind Index

The Lind index is applied to determine the market structure in an oligopolistic market. The oligopoly is a market structure with few large undertakings, each one of which through its conduct can bring about substantial changes in the market structure.

The Lind index determines the level of inequality among the participants in the market. For each one of them it is computed according to the following formula:

$$L_k = \frac{1}{k-1} \sum_{i=1}^{k-1} Q_{ki}$$

$$\sum_{i=1}^{K-1} A_i$$

K - the company's serial number (companies are ranked in descending order according to their market share, i.e. the number one company (K = 1) has the largest market share, the number two company (K = 2) has the second largest market share, etc.)

$$Q_{ki} = \frac{A_i}{i} : \frac{A_k - A_i}{K - i}$$

A_i - total market share of the first i companies [i = 1(K - 1)]

A_k - total market share of the first K companies

This index is used to determine the limits of the oligopoly by calculating its values for K=2, 3, etc., which would normally form a declining series. The limit of an oligopoly is the company where $L_k < L_{k+1}$, i.e.

$$L_{k-1} > L_k < L_{k+1}$$

III. FORMS FOR NOTIFICATION UNDER ART. 11 AND ART. 24 OF THE LAW ON THE PROTECTION OF COMPETITION

Where the undertakings submit notifications containing requests for authorisation under art. 11 and art. 24 of the Law on the Protection of Competition, they shall be obliged to fill in forms 1 and 2, attached to this Methodology, in compliance with the accompanying instructions.

FORM 1

**COMMISSION FOR THE
PROTECTION OF COMPETITION**

**Notification Under Art. 11 of the Law on the Protection of
Competition in Respect of Agreements, Decisions and
Concerted Practices Under Art. 9, Subsection 1**

1. Applicant undertaking.

Name, head office and registered address, particulars about the undertaking's court registration, objects, telephone, fax, telex.

2. Other undertakings parties to the agreement, decision or concerted practice.

Name, head office and registered address and a brief description of the other participants in the agreement, decision or concerted practice.

Measures taken to inform these undertakings about the current notification.

3. Legal form of the agreement, decision or type of concerted practice.
4. The relevant market, determined in accordance with this Methodology.
5. Aggregate market share of the undertakings - parties to the agreement, concerted practice or decision.
6. Request for exemption from prohibition provided for in art. 9 of the Law on the Protection of Competition.
7. Grounds for exemption.
8. Other relevant information - at the applicant's discretion.

I declare that the particulars in this notification are correct. I am aware that any false statement will render me liable under art. 60 (2) of the Law on the Protection of Competition and art. 313 of the Penal Code and that an authorisation granted on grounds of false statements may be revoked or amended pursuant to art. 13 (4) (3) of the Law on the Protection of Competition.

Signature:
(of the person who submits the notification or
of a representative)

Instructions on Filling in FORM 1 on the Notification Under Art. 11 of the Law on the Protection of Competition

On items 1 and 2

Where the parties to the agreement, decision or concerted practice are connected or associated undertakings in the meaning of #1 (2) and (3) of the Additional Provision of the Law on the Protection of Competition, full information shall be provided about the undertakings, including their ownership and possibility to exercise effective control over its management or activities. Control is expressed in terms of acquisition of rights, conclusion of contracts or other means - art. 21 (2) of the Law on the Protection of Competition. Where control is established by means of a contract, a copy of it shall be attached.

Where the notification is submitted by a representative, it must be accompanied by a power of attorney bearing the signature of the represented person. The power of

attorney must contain the representative's first, second and third name, civil registration number, accurate address and telephone number,

On item 3

Where a written agreement or decision exists, a duly certified copy shall be attached. Where the agreement or decision contains a commercial or another protected secret, the applicant shall indicate the data which constitute such secrets. They shall be confidential pursuant to art. 51 (3) of the Law on the Protection of Competition and may be used only for the purposes of the study.

Where the agreement or decision are not in a written form, the applicant shall provide a detailed description of their content.

Where a concerted practice exists, the specific form of coordination shall be indicated (action or omission) accompanied with a description.

In all cases involving agreements, decisions or concerted practices, detailed explanation shall be provided on clauses which may lead to the prevention, restriction or distortion of competition in the relevant market in the meaning of art. 9 (1) (1), (2), (3), (4) and (5). The following particulars shall also be provided:

- date of the agreement, decision or concerted practice;
- date of coming into effect;
- term of effectiveness;
- purpose of the agreement, decision or concerted practice;
- penalties to be imposed on the participating undertakings in the event of breaching the agreement, decision or concerted practice.

On item 4

A description is provided of the product and geographical market which will be affected by the agreement, decision or concerted practice, supplemented by a brief analysis of the market structure - number of participants, assessment of the competitive environment, barriers to entry, etc. The description shall be made in compliance with the Methodology.

Where the applicant is familiar with some market surveys, it shall be useful to attach them or to indicate the source of information.

On item 5

The market share of each participant in the agreement, decision or concerted practice shall be indicated. Data about the three previous years shall be provided.

The aggregate market share of the participating undertakings shall be computed in accordance with the procedure provided for in the Methodology.

On item 6

The grounds shall be indicated - art. 11 (3) of the Law on the Protection of Competition.

Where an exemption is sought for an agreement, decision or concerted practice involving small and medium-sized undertakings, reference shall be made also to the provision of art. 13, (2) of the Law on the Protection of Competition. Evidence about the nature of the undertakings shall be provided as well.

On item 7

In the request for exemption from prohibition under art. 13, the applicant shall substantiate in what way the agreement, decision or concerted practice contributes to the:

- increase and improvement of the production of goods and the provision of services;
- technical and economic development;
- enhancement of competitiveness in foreign markets;
- provision of a fair share of the benefits received to the consumers.

The applicant shall also substantiate that the level of prevention, restriction or distortion of competition in the relevant market does not exceed the above-mentioned economic benefits, and that therefore an exemption should be granted.

On item 8

Any other accessible information shall be applied, which the applicant may consider of assistance to the Commission in establishing the existence of restrictions in the agreement or of benefits which may justify them.

NB: Any undertaking which is uncertain how to fill in the notification or which needs some explanations shall feel free to contact the Commission for the Protection of Competition.

Where the applicant is unable to provide the required information, he shall explain the reasons for that. In this case, he shall indicate alternative sources from which the Commission for the Protection of Competition can obtain that information.

Where the participants in the agreement, decision or concerted practice consider that their interests might be encroached if the information they have provided is published or disclosed, they may put together and send that information separately, marking

each page with the inscription 'protected secret'. It is necessary to give the reason why that information shouldn't be published or disclosed.

FORM 2**COMMISSION FOR THE
PROTECTION OF COMPETITION****Notification Under Art. 24 of the Law on the Protection of Competition
of the Intention to Carry out a Concentration
Under Art. 21 of the Law on the Protection of Competition**

1. Applicant - the undertakings participating in the concentration.

Name, head office and registered address, particulars about the undertakings' court registration, objects, telephone, fax, telex.

2. Nature and legal form of the concentration.

3. Type of goods and services covered by the concentration.
4. Undertakings in respect of which the participants in the concentration exercise control in the meaning of Art. 21 (2) of the Law on the Protection of Competition.
5. Aggregate market share and aggregate turnover of the undertakings participating in the concentration.
6. Major competitors, suppliers and buyers.
7. Request for authorisation to carry out the concentration.
8. Arguments that the consequences envisaged in art. 28 (1) of the Law on the Protection of Competition will not occur.

In case there are data about occurrence of the consequences under art. 28 (1) - arguments on the anticipated favourable consequences of the concentration (consistent with art. 28 (2) of the Law on the Protection of Competition).

9. Other relevant information - at the applicant's discretion.

I declare that the particulars in this notification are correct. I am aware that any false statement will render me liable under art. 60 (2) of the Law on the Protection of Competition and art. 313 of the Penal Code and that an authorisation granted on grounds of false statements may be revoked or amended.

Signature:
(of the person who submits the notification or
of a representative)

Instructions on Filling in FORM 2 on the Notification Under art. 24 of the Law on the Protection of Competition

On item 1

Where the concentration of economic activity is carried out pursuant to art. 21 (1) (1), the notification shall be submitted jointly by the undertakings, which are going to merge or fuse, whereas in the cases under (2) - by those who through purchasing of securities, stakes or property, by means of a contract or in any other way, shall acquire direct or indirect control in the meaning of art. 21 (2) of the Law on the Protection of Competition.

Every undertaking, which has participated in the preparation of the notification, shall be responsible for the accuracy of the information it has provided.

Where the notification is submitted by a representative, it must be accompanied with a power of attorney bearing the signature of the represented undertaking. The power of attorney must contain the three names, civil registration number, accurate address and telephone number of the represented person.

On item 2

The nature and the legal form of the concentration shall be described. Both horizontal and vertical concentrations shall be subject to notification. Horizontal concentration exists among undertakings which produce identical or substitutable products, i.e. among competitors. Vertical concentration exists among undertakings which operate at different stages of the production and sale of products, i.e. ranging from the raw materials through finished products to the end user (e.g., a concentration between a leather producing undertaking and a shoe-making undertaking). The manner in which the concentration is to be carried out shall be indicated:

- a) merger or fusion - art. 21 (1);
- b) establishment of control - art. 21 (2), by means of:
 - acquisition of rights (right of ownership or right of use on the assets of the undertaking which is the subject of control, share or quota participation, securities, etc.);
 - conclusion of contracts (obligation or other contracts), which confer a possibility of exercising a decisive economic or legal influence on the undertaking which is the subject of control;
 - other ways of exercising a decisive economic or legal influence on the undertaking which is the subject of control;
 - creation of a joint venture under art. 22 of the Law on the Protection of Competition.

Under this item, the following information shall be provided for each participant in the concentration (except the applicant who provides data under item 1):

- name, head office and registered address, objects, telephone, fax, telex;
- structure of ownership, direct or indirect control of the undertaking. This information may be accompanied with organisational charts and diagrams in respect of the ownership and control;
- turnover of goods and services which are the subject of concentration (computed pursuant to the Methodology);
- market share of the goods and services, which are the subject of concentration (computed pursuant to the Methodology).

Information shall be provided also on:

- whether the subject of concentration is a whole undertaking (whole undertakings) or parts thereof;
- what the economic and financial structure of the concentration will be;
- what the structure of ownership or of control will be after the concentration is carried out;
- what type and amount of financial or other aid (including from state authorities) any participant in the concentration gets;
- other markets which will be affected by the concentration.

Where a concentration is carried out by means of setting up a joint venture in the meaning of art. 22 of the Law on the Protection of Competition, information shall be provided also on whether the undertakings participating in the concentration will preserve, and to what an extent, their relative share in the market of the joint venture or in the markets vertically connected to it.

On item 3

Under this item a description is given of the relevant product and geographical market (the market where services are provided). The applicant shall point out which of the relevant markets might be affected by the proposed concentration. The questions related to the nature of the market shall be formulated on the basis of the definition of the market given by the applicant.

The relevant market shall be defined pursuant to the Methodology by defining:

- a) the product market;
- b) the geographical market;
- c) the markets of the “supplier-producer-distributor” vertical line, which will be affected by the concentration.

These markets shall be described in brief by pointing out:

- the five biggest suppliers of the participating undertaking;
- the five biggest clients of the participating undertaking;
- the conditions of entry in the markets;
- whether there are any horizontal (among competitors) or vertical (among undertakings in the vertical “supplier-producer-distributor” line) agreements;
- whether there is an association of undertakings in any form (branch unions, associations, etc.).

If the applicant is familiar with any market surveys, it would be useful to attach them or to point out the source of information.

On item 4

Under this item, for each undertaking participating in the concentration, a list shall be drawn up of all the undertakings belonging to that group. This list shall comprise:

- undertakings or persons who exercise direct or indirect control over the undertaking participating in the concentration;
- undertakings which participate in the markets of the vertical “supplier-producer-distributor” line;
- undertakings over which the undertaking participating in the concentration has direct or indirect control in the meaning of art. 21 (2) of the Law on the Protection of Competition.

This information may be accompanied with organisational charts and diagrams of ownership and control (ref. chart on p. 71 of the Methodology)

On item 5

The applicant shall present data about the aggregate turnover and the aggregate market share of the participants in the concentration.

The aggregate market share of the participating undertakings is made up of the sum of their individual market shares.

NB: Before submitting a notification under art. 24, it would be advisable for the applicant to consult the Commission for the Protection of Competition concerning the volume of information it should contain. Since different volumes of information are required for different types of investigations, a prior consultation would benefit both the applicant and the Commission. The time limit within which the Commission has to issue an authorisation shall counted as of the moment when when full information under this form is received.

Where the applicant is unable to provide the required information, he shall explain the reasons for that. In this case, he shall indicate alternative sources from which the Commission for the Protection of Competition can obtain that information.

Where the applicant or the participants in the concentration consider that their interests might be encroached if the information they have provided is published or disclosed, they may put together and send that information separately, marking each page with the inscription 'protected secret'. It is necessary to give the reasons why that information shouldn't be published or disclosed.

Where the notification is compiled by more undertakings, the documents containing protected secrets for each one of them shall be submitted in separate folders as attachments to the notification.

The undertakings shall enclose certified copies of the documents containing information used in the calculation of market shares and turnover and shall indicate its source. They shall enclose also copies of the reports, analyses and market surveys they have conducted in relation to the pending concentration, and copies of the undertakings' most recent accounting statements and reports (balance sheet, profit and loss account, equity account, reports relating to jointly controlled undertakings, reports by certified accountants, etc.).

Any undertaking which is uncertain how to fill in the notification or which needs some explanations shall feel free to consult the Commission for the Protection of Competition.

This Methodology is based on the experience which the Commission has gained in the implementation of the Law on the Protection of Competition. It will be updated and supplemented in the future to take account of the practices of the Commission and the Supreme Administrative Court.

ORDINANCE No. 180
on Approving the Tariff of Fees Charged by
the Commission on the Protection of Competition
Pursuant to the Law on the Protection of Competition
of 10 August 1998
(Published: State Gazette, issue 95 of 14 August 1998)

THE COUNCIL OF MINISTERS
HEREBY DECREES:

Article One: Approves the Tariff of Fees charged by the Commission for the Protection of Competition pursuant to the Law on the Protection of Competition.

Transitional and Final Provisions

#1. This Ordinance is adopted pursuant to art. 47 (1) of the Law on the Protection of Competition.

#2. The fees due under the Tariff for proceedings instituted under the Law on the Protection of Competition prior to the publication of the Tariff, shall be collected upon their completion.

#3. The enforcement of this Ordinance is assigned to the Chairman of the Commission for the Protection of Competition.

PRIME MINISTER: Ivan Kostov

ACTING SECRETARY-GENERAL

OF THE COUNCIL OF MINISTERS: Konstantin Hadjipanov