Zero Tolerance for Cartels: Macedonian Competition Commission Sanctions Buyers' Cartel for "By Object" Restriction of Competition

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Authors: Ivana Jevtic Nikolova, Partner
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The Macedonian Commission for the Protection of Competition (CPC) has recently intensified its scrutiny of anti-competitive conduct and unfair trading practices across multiple sectors, signaling a notable shift toward more assertive and proactive enforcement.

In its latest decision, the CPC announced that four supermarket chains, together with the Association of the Economic Chamber, had engaged in a prohibited agreement that restricted market competition. According to the Commission, the parties reached a concerted position not to accept new or increased price lists from their suppliers. Instead of acting independently, they aligned their purchasing behavior, thereby establishing practical coordination—conduct which constitutes a restriction of competition and is strictly prohibited under the Law on Protection of Competition.

Under Article 7 paragraph 1 point 1 of the Macedonian Law on Protection of Competition:
"All agreements between undertakings, decisions by associations of undertakings, and concerted practices whose object or effect is to prevent, restrict or distort competition are prohibited, and in particular those which directly or indirectly fix purchase or selling prices or other trading conditions."

The behavior identified by the CPC qualifies as a restriction of competition by object, meaning that the very nature of the conduct is considered sufficiently harmful to competition that it is prohibited without the need to prove actual market effects.

In assessing whether a concerted practice pursues an anti-competitive object, the European Court of Justice has already held in multiple judgments that[1]:

- It is sufficient that the conduct has the potential to have a negative impact on competition.
- In other words, the concerted practice must merely be capable, in its specific legal and economic context, of preventing, restricting, or distorting competition.
- Whether anti-competitive effects actually occurred is relevant only for the determination of the fine or for damages assessment.

Bearing in mind these principles established by the European Court of Justice, the CPC imposed fines totaling EUR 220,000 as a preventive measure, aimed at deterring similar infringements and ensuring fair and undistorted market conditions. A concerted practice may be regarded as anti-competitive even if it has no direct link to consumer prices. As established by the Court of Justice of the European Union:

"Article 101 TFEU (formerly Article 81 EC) aims not only to protect the immediate interests of competitors or consumers but also to safeguard the market structure and competition as such.[2]"

1 Case C 32/11, Allianz Hungária Biztosító Zrt, and Others [2013], p. 38
2 Case C 8/08 T-Mobile Netherlands and Others [2009] ECR I 4529, p. 38

Therefore, it is not necessary to demonstrate a direct impact on end-consumer prices in order to establish that a concerted practice has an anti-competitive object. It is sufficient that the practice undermines the competitive process itself—in this case, by coordinating purchasing behavior and suppressing independent decision-making among supermarket chains.

The decision of the Macedonian Commission for the Protection of Competition represents a clear reaffirmation of the fundamental principle that independent commercial decision-making is the cornerstone of a competitive market economy. By sanctioning buyer coordination that effectively restricted supplier negotiations, the CPC not only applied established EU and domestic competition law principles but also sent a strong message that anti-competitive conduct—particularly coordination among major market players—will not be tolerated.

As enforcement becomes increasingly assertive, undertakings and associations must ensure that their internal practices, cooperation frameworks, and communication channels comply strictly with competition rules. This case serves as an important reminder that even seemingly limited coordination on purchasing decisions can constitute serious infringement, attracting significant sanctions and reputational consequences.

Author

Ivana Jevtic Nikolova

Partner

E: ivana.jevtic@jpm.law

JPM | Partners
38/1-2, Leninova street
1000 Skopje
North Macedonia
T:+389|2|316-2222
E: office.mk@jpm.law

www.jpm.law