



Nova uputstva Komisije za zaštitu konkurencije u primeni Zakona o
trgovačkim praksama

New Guidelines of the Commission for Protection of Competition on the
Application of the Law on Trading Practices for Certain Products



PARTNERS

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Nova uputstva Komisije za zaštitu konkurencije u primeni Zakona o trgovačkim praksama

Zakon o trgovačkim praksama za određene vrste proizvoda („Sl. glasnik RS“, br. 35/2026) (u daljem tekstu: „Zakon“), koji je stupio na snagu 1. maja 2026. godine, doneo je novi regulatorni okvir za odnose između kupaca i snabdevača određenih proizvoda, pre svega poljoprivrednih i prehrambenih proizvoda. Zakon uređuje dve međusobno povezane oblasti: postojanje značajne pregovaračke moći kupca u odnosu na snabdevača i zabranu određenih trgovačkih praksi koje se mogu javiti u takvom odnosu. Više o Zakonu možete pročitati na sledećem linku.

Za primenu Zakona nadležna je Komisija za zaštitu konkurencije (u daljem tekstu: „Komisija“), koja je tokom jula 2026. godine usvojila dva uputstva kojima je detaljnije objasnila kriterijume koje će koristiti prilikom primene novih pravila:

- Uputstvo kojim se bliže uređuju nepoštene trgovačke prakse (u daljem tekstu: „Uputstvo o nepoštenim trgovačkim praksama“); i
- Uputstvo kojim se bliže uređuje značajna pregovaračka moć (u daljem tekstu: „Uputstvo o pregovaračkoj moći“).

Uputstva ne menjaju obaveze propisane Zakonom, već daju konkretnije smernice o tome kako će Komisija tumačiti i primenjivati njegove odredbe u pojedinačnim slučajevima.

New Guidelines of the Commission for Protection of Competition on the Application of the Law on Trading Practices for Certain Products

The Law on Trading Practices for Certain Products (“Official Gazette of the Republic of Serbia”, No. 35/2026) (the “Law”), which entered into force on 1 May 2026, introduced a new regulatory framework governing commercial relationships between buyers and suppliers of certain products, primarily agricultural and food products. The Law regulates two closely related areas: the existence of significant bargaining power of a buyer vis-à-vis a supplier and the prohibition of certain unfair trading practices that may arise in such relationships. More information on the Law is available [here](#).

The Commission for Protection of Competition (the “Commission”) is responsible for enforcing the Law. In July 2026, the Commission adopted two guidelines providing further clarification of the criteria and circumstances it will consider when applying the new rules:

- Guidelines on Unfair Trading Practices (the “Guidelines on Unfair Trading Practices”); and
- Guidelines on Significant Bargaining Power (the “Guidelines on Bargaining Power”)

The Guidelines do not introduce new obligations beyond those established by the Law. Rather, they provide additional guidance on the interpretation and application of the Law and clarify the circumstances that may be relevant when assessing individual commercial relationships

1. Uputstvo kojim se bliže uređuju nepoštene trgovačke prakse

Zakon razlikuje dve osnovne grupe nepoštenih trgovačkih praksi – prakse sa tzv. „crne liste“, koje su zabranjene bez obzira na postojanje saglasnosti ugovornih strana, i prakse sa tzv. „sive liste“, koje su dozvoljene samo pod uslovima predviđenim Zakonom. Zakon dodatno zabranjuje i komercijalnu odmazdu kupca prema snabdevaču.

Radi bližeg određenja trgovačkih praksi obuhvaćenih crnom i sivom listom, kao i pojma komercijalne odmazde, Komisija je donela Uputstvo kojim se bliže uređuju nepoštene trgovačke prakse.

Crna lista - apsolutno zabranjene prakse

Kod praksi sa crne liste, Uputstvo o nepoštenim trgovačkim praksama bliže razrađuje, između ostalog, pravila koja se odnose na rokove plaćanja, otkazivanje porudžbina kvarljivih proizvoda, jednostrane izmene ugovorenih uslova, zahtevanje plaćanja koja nisu povezana sa prodajom proizvoda, kao i pojedine oblike prebacivanja troškova na snabdevača.

Posebno su značajna pojašnjenja u pogledu rokova plaćanja, koji iznose 30 dana za kvarljive poljoprivredne i prehrambene proizvode, odnosno 60 dana za ostale poljoprivredne i prehrambene proizvode. Imajući u vidu da prekoračenje ovih rokova predstavlja zabranjenu praksu, usklađenost je potrebno obezbediti i kroz interne procedure kupca, naročito u pogledu prijema računa, njihove obrade i odobravanja plaćanja.

1. Guidelines on Unfair Trading Practices

The Law distinguishes between two categories of unfair trading practices: practices included on the so-called “blacklist”, which are prohibited regardless of the parties’ consent, and practices included on the “grey list”, which are permitted only if the conditions prescribed by the Law are satisfied. The Law also expressly prohibits commercial retaliation by a buyer against a supplier.

The Guidelines on Unfair Trading Practices provide further clarification of the practices covered by the blacklist and grey list, as well as the concept of commercial retaliation.

Blacklist – absolutely prohibited practices

With respect to blacklist practices, the Guidelines provide additional clarification concerning, among other things, payment deadlines, cancellation of orders for perishable products, unilateral amendments to contractual terms, payments unrelated to the sale of products, and certain forms of transferring costs to suppliers.

Particular attention is given to payment deadlines, which are 30 days for perishable agricultural and food products and 60 days for other agricultural and food products. Since exceeding these deadlines constitutes a prohibited practice, buyers should ensure compliance through their internal procedures, including the processes for receiving, processing and approving invoices and payments.

Uputstvo dodatno konkretizuje i pojedine situacije u kojima kupac može zahtevati naknadu od snabdevača. Pri tome se pravi razlika između redovnih troškova poslovanja kupca i stvarnih dodatnih usluga koje kupac pruža snabdevaču. Tako, na primer, redovni troškovi skladištenja predstavljaju troškove poslovanja kupca i ne mogu se preneti na snabdevača, dok je naknadu moguće ugovoriti za stvarne dodatne skladišne usluge, pod uslovima predviđenim Uputstvom. Slično tome, Uputstvo detaljnije uređuje naknade povezane sa izlaganjem proizvoda, ulistavanjem, marketingom, oglašavanjem i promotivnim aktivnostima, pri čemu je od značaja da postoji stvarna usluga, da su njeni uslovi i naknada unapred poznati i da postoji odgovarajuća saglasnost snabdevača.

Siva lista - prakse dozvoljene pod propisanim uslovima

Za razliku od crne liste, kod praksi sa sive liste samo postojanje određene poslovne prakse ne znači automatski i povredu Zakona. Njihova dozvoljenost zavisi od ispunjenosti uslova propisanih Zakonom, koje Uputstvo dodatno konkretizuje.

Uputstvo o nepoštenim trgovačkim praksama, između ostalog, razrađuje uslove pod kojima mogu biti dopuštene određene naknade koje kupac zahteva od snabdevača, vraćanje neprodatih proizvoda, smanjenje obima porudžbina, raskid poslovne saradnje, plaćanje u nenovčanom obliku, retroaktivne naplate, kao i prenošenje određenih troškova i obaveza na snabdevača.

The Guidelines also provide further clarification regarding certain fees and costs that buyers may seek to charge to suppliers. In this respect, a distinction is made between ordinary operating costs of the buyer and genuine additional services provided by the buyer to the supplier. For example, ordinary storage costs constitute part of the buyer's operating expenses and may not simply be passed on to the supplier, while fees may be agreed for genuine additional storage services, subject to the conditions set out in the Guidelines. Similar principles apply to fees relating to product listing, product display, marketing, advertising and promotional activities, where the existence of an actual service, prior agreement on its terms and applicable fee, and the supplier's consent are relevant.

Grey list – practices permitted subject to specific conditions

Unlike blacklist practices, the mere existence of a grey-listed practice does not automatically constitute a violation of the Law. Such practices are permissible only if the conditions prescribed by the Law are met, as further clarified by the Guidelines.

The Guidelines address, among other matters, the conditions under which certain fees charged to suppliers, returns of unsold products, reductions in order volumes, termination of commercial relationships, non-monetary payments, retroactive charges, and the transfer of certain costs and obligations to suppliers may be permitted.

Kod ovih praksi od posebnog je značaja prethodni pisani sporazum kupca i snabdevača. Nije dovoljno da se određena praksa ustalila u poslovnom odnosu ili da je snabdevač naknadno postupanje kupca prećutno prihvatio. Potrebno je da su relevantna obaveza, usluga ili naknada unapred jasno i nedvosmisleno ugovorene, uključujući, kada je to primenljivo, njihovu prirodu, uslove primene i način obračuna. U tom smislu, Uputstvo pruža značajne smernice za procenu da li određena ugovorna odredba zaista ispunjava uslove za primenu prakse sa sive liste.

Ovo je posebno značajno kod različitih naknada i dodatnih usluga. Uputstvo polazi od toga da naknada treba da ima odgovarajuću protivčinidbu, odnosno da postoji stvarna usluga koju kupac pruža snabdevaču, dok se redovni troškovi poslovanja kupca ne mogu jednostavno prebaciti na snabdevača. Pored postojanja usluge, značaj imaju i prethodna obaveštenost i saglasnost snabdevača, kao i jasno određeni uslovi pod kojima se naknada obračunava.

A key requirement for grey-listed practices is a prior written agreement between the buyer and the supplier. It is not sufficient for a particular practice to have become established in the course of the commercial relationship or to have been tacitly accepted by the supplier. The relevant obligation, service or fee must be clearly and unambiguously agreed in advance, including, where applicable, its nature, conditions of application and method of calculation.

This is particularly relevant in relation to fees and additional services. The Guidelines distinguish between genuine services provided by the buyer to the supplier and the buyer's ordinary operating costs, which should not simply be transferred to the supplier. The existence of the service, the supplier's prior knowledge and consent, and clearly defined conditions for calculating the applicable fee are therefore of particular importance.

Komercijalna odmazda

Uputstvo o nepoštenim trgovačkim praksama, posebno razrađuje i zabranu komercijalne odmazde, koja predstavlja samostalnu kategoriju nepoštenih trgovačkih praksi. Komercijalna odmazda može postojati kada kupac, kao reakciju na ostvarivanje prava snabdevača ili njegovo odbijanje određenog komercijalnog zahteva, preduzme mere kojima pogoršava njegov poslovni položaj.

Takvo postupanje, na primer, može se ogledati, između ostalog, u smanjenju ili obustavljanju narudžbina, uklanjanju proizvoda iz ponude ili promotivnih aktivnosti, odlaganju prijema proizvoda ili uskraćivanju pogodnosti koje je snabdevač prethodno imao. Za ocenu postojanja komercijalne odmazde naročito će biti relevantne okolnosti konkretnog slučaja i povezanost između postupanja snabdevača i naknadne reakcije kupca.

Na ovaj način, Uputstvo daje praktičan okvir za primenu Zakona, posebno u situacijama u kojima formalni sadržaj ugovora nije dovoljan za ocenu zakonitosti postupanja. Za učesnike na tržištu to znači da će, pored same ugovorne dokumentacije, biti važno i kako se komercijalni uslovi dogovaraju, dokumentuju i primenjuju u svakodnevnom poslovanju.

Commercial retaliation

The Guidelines also provide further clarification of the prohibition of commercial retaliation, which constitutes a separate category of unfair trading practice. Commercial retaliation may arise where a buyer, in response to a supplier exercising its legal rights or refusing a particular commercial request, takes measures that adversely affect the supplier's business position.

Such conduct may include, for example, reducing or suspending orders, removing products from the buyer's assortment or promotional activities, delaying the acceptance of products, or withdrawing benefits or services previously available to the supplier. In assessing whether commercial retaliation exists, the Commission will consider the circumstances of the individual case, including the connection between the supplier's conduct and the buyer's subsequent response.

The Guidelines therefore provide a practical framework for applying the Law, particularly in situations where the formal wording of a contract alone is not sufficient to assess the legality of a particular practice. For market participants, this means that, in addition to contractual documentation, attention should be given to how commercial terms are negotiated, documented and implemented in day-to-day business operations.

2. Uputstvo kojim se bliže uređuje značajna pregovaračka moć

Zakon o trgovačkim praksama za određene vrste proizvoda vezuje postojanje značajne pregovaračke moći prvenstveno za odnos godišnjih prihoda kupca i snabdevača. Međutim, ispunjenost propisanih pragova nije jedini način na koji se postojanje takve moći može utvrditi. Uputstvo o pregovaračkoj moći detaljnije uređuje način na koji će Komisija utvrđivati značajnu pregovaračku moć kupca u konkretnom poslovnom odnosu.

Uputstvo o pregovaračkoj moći, značajnu pregovaračku moć određuje kao sposobnost jedne ugovorne strane da, usled neravnoteže u ekonomskom položaju ugovornih strana, nametne svoje uslove drugoj strani.

Utvrđivanje godišnjeg prihoda

Prvi deo Uputstva o pregovaračkoj moći detaljnije razrađuje način utvrđivanja godišnjeg prihoda koji je relevantan za primenu zakonskih pragova.

U tom pogledu, Uputstvo o pregovaračkoj moći dodatno uređuje način utvrđivanja relevantnog godišnjeg prihoda, uključujući podatke i dokumentaciju na osnovu kojih se prihod dokazuje, kao i okolnosti u kojima se dostavljeni podaci mogu smatrati nepotpunim ili nepouzdanim. Takođe, predviđa mogućnost odvojenog prikazivanja prihoda iz međusobno nekomplementarnih delatnosti i daje smernice za utvrđivanje prihoda u složenijim poslovnim strukturama, kada ga nije moguće jednostavno odrediti.

2. *Guidelines on Significant Bargaining Power*

The Law primarily links the existence of significant bargaining power to the relationship between the annual revenues of the buyer and the supplier. However, meeting the statutory revenue thresholds is not the only factor relevant to determining whether significant bargaining power exists. The Guidelines on Bargaining Power provide further guidance on how the Commission will assess significant bargaining power in individual commercial relationships.

The Guidelines define significant bargaining power as the ability of one contractual party, due to an imbalance in the economic position of the parties, to impose its terms on the other party.

Determination of annual revenue

The first part of the Guidelines addresses the determination of the annual revenue relevant for the application of the statutory thresholds.

In this respect, the Guidelines further clarify the data and documentation that may be used to establish relevant annual revenue, as well as the circumstances in which the information provided may be considered incomplete or unreliable. They also address the possibility of separately identifying revenue generated from non-complementary business activities and provide guidance for determining relevant revenue in more complex business structures where it cannot be readily established.

Ova pravila dopunjuju član 4. Zakona i treba da omoguće pouzdaniju primenu zakonskih pragova prihoda u situacijama u kojima učesnici obavljaju više delatnosti ili raspoloživi finansijski podaci ne pružaju dovoljno jasnu sliku.

Značajna pregovaračka moć i kada zakonski pragovi nisu ispunjeni

Poseban značaj Uputstva o pregovaračkoj moći ogleda se u bližem određivanju okolnosti na osnovu kojih se značajna pregovaračka moć može utvrditi i kada nisu ispunjeni novčani pragovi iz člana 4. Zakona.

U tom slučaju snabdevač može ukazati na određene pokazatelje pregovaračke moći kupca, koji se mogu odnositi na strukturu i karakteristike tržišta, industrijske standarde, uobičajenu poslovnu praksu, kao i konkretan odnos kupca i snabdevača.

Uputstvo o pregovaračkoj moći dodatno određuje okolnosti koje Komisija može uzeti u obzir pri proceni postojanja značajne pregovaračke moći. Pri tome se, između ostalog, posmatra zavisnost snabdevača od konkretnog kupca i dostupnost alternativnih kupaca, troškovi promene poslovnog partnera, način i istorijat pregovora, mogućnost stvarnog uticaja na ugovorne uslove, raspodela prava, obaveza i rizika, kao i visina i učestalost naknada koje snabdevač plaća kupcu. U obzir se mogu uzeti i okolnosti poput neopravdanog odlaganja pregovora, ponašanja stranaka u rešavanju sporova i uslova koje isti kupac primenjuje prema drugim snabdevačima.

Uputstvo o pregovaračkoj moći posebno naglašava da nijedan od navedenih pokazatelja nije sam za sebe odlučujući. Postojanje više pokazatelja, posmatranih zajedno i u okolnostima konkretnog poslovnog odnosa, može ukazivati na postojanje značajne pregovaračke moći kupca čak i kada zakonski pragovi prihoda nisu ispunjeni.

These rules supplement Article 4 of the Law and are intended to facilitate a more reliable application of the statutory revenue thresholds, particularly where market participants conduct several business activities or their available financial information does not provide a sufficiently clear basis for determining relevant revenue.

Significant bargaining power where revenue thresholds are not met

An important aspect of the Guidelines is the further clarification of the circumstances in which significant bargaining power may exist even where the statutory revenue thresholds are not met.

In such cases, the supplier may point to various indicators of the buyer's bargaining power, including factors relating to the structure and characteristics of the relevant market, industry standards, established business practices, and the specific commercial relationship between the buyer and supplier.

The Guidelines further identify circumstances that the Commission may consider when assessing significant bargaining power. These include, among other things, the supplier's dependence on a particular buyer, the availability of alternative buyers, switching costs, the manner and history of negotiations, the parties' actual ability to influence contractual terms, the allocation of rights, obligations and risks, and the amount and frequency of fees paid by the supplier to the buyer. The Commission may also consider factors such as unjustified delays in negotiations, the parties' conduct in dispute resolution, and the terms applied by the same buyer in comparable relationships with other suppliers.

Importantly, none of these factors is decisive on its own. The existence of several indicators, considered together and in the context of the particular commercial relationship, may point to significant bargaining power even where the statutory revenue thresholds have not been met.

Praktični značaj novih Uputstava

Donošenjem ova dva Uputstva Komisija je precizirala način na koji će pristupati pojedinim ključnim institutima novog Zakona.

Uzimajući ove novine u obzir, za privredna društva na koje se Zakon primenjuje provera usklađenosti ne bi trebalo da bude ograničena samo na formalnu reviziju ugovora. Nasuprot, trebalo bi da se preispitaju i rokovi i način plaćanja, različite naknade i bonusi, troškovi marketinga i promocije, mogućnost jednostrane izmene uslova poslovanja, način dokumentovanja saglasnosti snabdevača, kao i sam proces pregovaranja i izmene komercijalnih uslova.

Practical implications of the new Guidelines

By adopting these two Guidelines, the Commission has provided additional clarity on the application of several key concepts introduced by the Law.

In light of these developments, compliance reviews by companies falling within the scope of the Law should not be limited to a formal review of contractual documentation. Companies should also assess payment terms and procedures, fees and rebates, marketing and promotional costs, the possibility of unilateral changes to commercial terms, the manner in which supplier consent is documented, and the negotiation and amendment of commercial arrangements.

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