

Guidelines under scrutiny horizontal mergers and the interplay between law and practice in Macedonia

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Abstract

The adoption of the new Guidelines on Assessment of Horizontal Mergers (GHM)¹ in 2016 is a significant development in the field of competition law of Macedonia and as such requires a legal analysis of its relevance and application. The distinctive feature of the GHM is that they reduce the number of undertakings from the relevant market or remove at least one independent seller with a consequent increase in market concentration. These guidelines serve to demonstrate that the assessment of mergers needs to go beyond the definition of the relevant market and the calculation of market shares. However, being soft law by their nature, the GHM's provide wide discretion to the Commission for Protection of Competition (CPC) in determining how mergers will be assessed in practice. With this in mind, this research is structured in three parts: the first part provides for short overview of the functions, powers and duties of the CPC in light of GHM's. The second part discusses the decisions of CPC regarding horizontal mergers in 2016 in correlation with GHM and the third part focuses mainly on the application of GHM and the differences between the European Union (EU) and Macedonian GHM's. In light of these developments, the application of competition law in Macedonia is facing significant challenges and also shows incoherence between the legislation adopted and its application in practice.

Keywords: competition law, guidelines, horizontal mergers, European union, Macedonia, market shares, market concentrations.

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