

**DECREE****of the Antimonopoly Office of the Slovak Republic**

of 13 June 2014

**laying down thresholds for determination whether the agreement between undertakings, concerted practice of undertakings or decision by associations of undertakings has inappreciable impact on competition**

Pursuant to Article 4 paragraph 2 of the Act No. 136/2001 Coll. on Protection of Competition and on Amendments and Supplements to the Act of the Slovak National Council No. 347/1990 Coll. on Organization of Ministries and Other Central Bodies of State Administration of the Slovak Republic as amended in the wording of the Act No. 151/2014 Coll. (hereinafter referred to as "the Act"), the Antimonopoly Office of the Slovak Republic (hereinafter referred to as "the Office") stipulates the following:

**Article 1**

- (1) Agreement between undertakings pursuant to the Article 3 paragraph 1 of the Act (hereinafter referred to as "the undertaking") and the concerted practice of undertakings (hereinafter referred to as "the agreement") has inappreciable impact on competition if
- a) the total market share owned together by the parties to the agreement operating at the same level of production or distribution chain (hereinafter referred to as "the agreement between competitors") does not exceed 10 % in the relevant market affected by the agreement,
  - b) market share owned by each party to the agreement, parties to which operate at a different level of production or distribution chain (hereinafter referred to as "the agreement between non-competitors") does not exceed 15 % in any relevant market affected by the agreement,
  - c) the total market share owned together by the parties to the agreement does not exceed 10 % in any relevant market affected by the agreement, if it is not possible to clearly specify whether the agreement concerned is agreement between competitors or agreement between non-competitors, or
  - d) competition in relevant market is restricted by cumulative impact of agreements which contain similar kind of competition restrictions and lead to similar impacts on the relevant market and these agreements relate to more than 30 % of relevant market and
    1. the total market share owned by the parties to the agreement does not exceed 5 % in any relevant market affected by the agreement between competitors,
    2. market share owned by each party to the agreement between non-competitors does not exceed 5 % in any relevant market affected by the agreement, or
    3. neither total market share nor market share of any party to the agreement exceeds 5 % in any relevant market affected by the agreement, if it is not possible to clearly specify whether the agreement concerned is agreement between competitors or agreement between non-competitors.

(2) Agreement has inappreciable impact on competition also if the market shares of parties to the agreement do not exceed thresholds according to the Article 1 for two consecutive calendar years by more than two percentage points.

## Article 2

Decision by association of undertakings has inappreciable impact on competition if this association associates undertakings having total market share owned together which does not exceed 10 % in any affected relevant market. Provisions of the Article 1 paragraph 2 and Article 3 shall apply adequately.

## Article 3

For the purposes of assessment whether the conditions pursuant to the Articles 1 and 2 have been fulfilled, the market share of undertaking shall be calculated as the sum of shares in the relevant market

- a) of the undertaking being party to the agreement,
- b) of the undertakings in which the party to the agreement directly or indirectly
  - 1. holds more than half of share capital,
  - 2. is entitled to exercise more than half of the voting rights,
  - 3. has the right to appoint more than half of the members of the undertaking's bodies or
  - 4. has the right to manage the undertaking's affairs,
- c) of the undertaking having the rights referred to in (b) in the party to the agreement,
- d) of the undertaking in which the undertaking referred to in (c) have the rights referred to in (b) second point to fourth point,
- e) of the undertaking in which two or more undertakings referred to in (a) to (d) have joint rights referred to in (b) second point to fourth point.

## Article 4

This Decree shall enter into force on 1 July 2014.

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