

**Muja Law** brings you the latest issue of *Food for Thought*.

Recently, the Competition Authority in Albania has issued the Decision No. 707, dated 23.09.2020 "*On the opening of the Preliminary Investigation in the Market of Pharmaceutical Drugs and Medical Devices*" (hereinafter referred to as the "*Decision*").

The Decision comes after the Albanian Parliament, in its resolution "*On the evaluation of the activity of the Competition Authority for 2018*", has asked the Competition Authority to "*Supervise with priority and come up with concrete recommendations for markets with high public sensitivity and social impact such as: banking market, the market of hospital services, the pharmaceutical market, etc.*".

In virtue of the Competition Law, during the investigation period, necessary inspections were carried in the hospital services. From the general investigation, the Competition Commission has concluded that the costs of pharmaceutical drugs and investments in medical equipment constitute an important element to be competitive in the hospital market and its evaluation will bring a more complete picture to see their impact on improving the health care in the country.

As for the above, the Competition Commission with Decision No. 707, Dated 23.09.2020, has decided "*On the opening of the preliminary investigation procedure in the market of pharmaceutical drugs and medical devices*" to see if there are restrictions, distortions or any obstruction of competition by enterprises operating in the market.

*Some of the most important findings until now are as follows:*

- *Analysis*

From the procedures so far, in the framework of the general investigation in the hospital service, it has been concluded that the costs of pharmaceutical drugs and

investments in medical equipment constitute an important element to be competitive in the hospital market and its evaluation will bring a more complete picture to see their impact on improving health care in the country.

The pharmaceutical drug market has previously been the object of evaluation by the Authority, where it has concluded that the need for pharmaceutical drugs in the country is met for the most part through their import.

According to the Competition Authority, the price of pharmaceutical drugs in the pharmaceutical market is not a competitive element as fixing it for at least a period of 6 months and placing it on the control stamp makes it unchangeable, restricting competition with the products' prices in the pharmaceutical market by the actors of this market.



The Competition Authority also provides that the supply of pharmaceutical drugs in the market is limited due to the high degree of market power by patent or exclusive rights holders while the demand for pharmaceutical drugs is not determined directly by the consumer (*patient*), but by doctors and thus the consumer does not have the opportunity to make his choice based on cheaper prices and better quality, but as a rule follows the doctor's instructions.

*The market presents asymmetry in the information due to the relationship between doctor and patients, doctor and pharmaceutical manufacturers/importers, which can be one of the main causes of market dysfunction on the basis of supply and demand.*

Meanwhile, according to the Competition Authority, the market of medical devices is a new and dynamic market due to technological development in the field of health examinations. In this regard, it is necessary to assess the limitations that bring to the market the given exclusivities in relation to equipment brands or their maintenance services.

As for the above, the Authority has decided:

1. Opening of the preliminary investigation procedure in the market of pharmaceutical drugs and medical devices.
2. The general investigation should cover the period from January 1, 2019 to November 30, 2020.
3. The investigation report must be submitted to the Competition Commission no later than 3 (*three*) months from the decision.
4. The Secretary General is in charge of the implementation of this decision and notifying of the parties.

*This decision has entered into force immediately.*

#### ❖ Conclusion

As seen lately, the Competition Authority in Albania seems to be progressing steadily towards a firmer role as a true market regulator.

This can be observed from various investigations started lately from the Competition Authority, in fields such as education, telecommunication, pharmaceutical market, utilities, etc.

It is important to highlight the fact that the above areas are mainly dominated by big companies and thus, the competition may be easily obstructed.

*However, the investigations until now have been concluded mostly with mere recommendations for the big companies or enterprises that may have been found obstructing the competition.*

*In this regard, it is important to underline that in a fragile economy and democracy such as that of Albania, it is very important to have authorities, such as the Competition Authority, that ensure that the progress continues smoothly, by making sure to give proper measures, however harsh they may be, to the enterprises found obstructing the competition.*





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The office is full-service and advises clients on all areas of civil, commercial and administrative law. With significant industry expertise, we strive to provide our clients with practical business driven advice that is clear and straight to the point, constantly up to date, not only with the frequent legislative changes in Albania, but also the developments of international legal practice and domestic case law. The office delivers services to clients in major industries, banks and financial institutions, as well as to companies engaged in insurance, construction, energy and utilities, entertainment and media, mining, oil and gas, professional services, real estate, technology, telecommunications, tourism, transport, infrastructure and consumer goods. In our law office, we also like to help our clients with mediation services, as an alternative dispute resolution method to their problems.

While we have grown over the past 20 years and become recognized as one of Albania’s leading law offices, we are grounded in the essence of “who” we are and “where” we started. We understand the importance of family, hard-work, and dedication.

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