

Development and Implementation of Comprehensive Trade Policy in Order to Improve Consumer Protection in the Republic of Serbia

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Unstoppable increasing of the power of retailers have caused on developed, but also developing markets, deep changes in relation to structure and mechanism of market functioning. Considering the fact that increase of retailers' power brings both positive and negative effects on the position of other market players and market structure as a whole, there is a strong need of an active role of the state in the creation and implementation of adequate market conditions for business activity. Modern concept and content of trade policy become necessary so as to ensure undisturbed development of the market and all the market players regardless of their size and power, protection of competition and, which is more significant, protection of consumers themselves. Different segments of trade policy overlap and contribute to mutual success or failure in the implementation. This is particularly the case of two highly complementary policies – protection of competition policy and consumer protection policy. Their individual success requires mutual coordination and teamwork of institutions competent for the market development, system of competitive struggle in retail and increase of benefits for consumers. The Republic of Serbia, upon the signing of the Stabilisation and Association Agreement between the European Communities and their member states of the one part and the Republic of Serbia, of the other part in April 2009, has intensively been working on the development and implementation of modern trade policy, and particularly on consumer protection policy where it achieved relevant results. Those results have not only reflected in the position of consumers, but beyond - on the development of full market and its competition. In the following period of its harmonization with the single European market, Serbia should more intensively and more decisively develop and implement full, consistent and modern trade policy. The focus of its individual segments, undoubtedly, should be on consumers' interest, but at the same time with maintenance of equality between all the market players. Adoption of different segments of trade policy should be coordinated process, and their implementation conducted in cooperation of all

the competent institutions, taking into consideration the knowledge and experience of modern, developed, markets.

Keywords: trade policy, consumer protection, protection of competition, retail, consumers

Consumer protection policy as a comprehensive part of modern trade policy

Unstoppable increasing of the power of retailers on the EU market and other developed economies caused, at the end of the last and the beginning of this century, deep changes in relation to structure and mechanism of market functioning. Identical processes are underway on the developing markets, as well, where the relations between certain members of marketing channels are changing. Structure of retail is transforming from the considerable number of small and independent retailers into the dominant role of strong national and multinational retailers. They are constantly increasing their market share, and thus the retail concentration as well. Growing part of market falls into hands of decreasing number of stronger retailers, and retail itself as a sector becomes stronger both on national and global market.

Today, retailers are in most cases considerably bigger and stronger than producers. They often dictate conditions to the biggest global producers. Producers are becoming more dependent on retailers causing them to pay more attention to building the relations with retailers, and less with consumers. The empowered retail overtakes the leading role in relations with consumers in marketing channels, and thus the dominant position in marketing channels.

Undoubtedly, growth and development of retailers bring numerous benefits for consumers and rise the level of distribution efficiency, which has also positive effects on economy and society as a whole. However, the achieved high level of market concentration and high level of purchasing and market power in the hands of few retailers, induced considerable problems. When fast-growing retailers establish dominant position and start to influence the competitive relations on market, apart from the positive and constructive side of their power, destructive side appears on the scene as well. In this case, the implementation of an adequate trade policy must eliminate all those imperfections and deviations on the market threatening to highly disturb their efficiency.

Considering the fact that increase of retailers' power brings both positive and negative effects on the position of other market players and market structure as a whole, it becomes apparent that a state should play an active role in the creation and implementation of adequate market conditions for business activity. A modern concept and content of trade policy becomes necessary in order to ensure undisturbed development of a market and all the market players, regardless of their size and power, protection of competition and, which is more important, protection of consumers themselves. These specific circumstances require, above all, intensive development of the following priority segments of trade policy (Lovreta, 2009):

- protection of competition policy
- consumer protection policy
- protection of small and medium-sized enterprises policy.

In accordance with the division of competition law into two branches (Vasiljević, 2012) – antitrust law and unfair competition law, nowadays, protection of competition requires a comprehensive approach. Although the focus in this field has traditionally been on prohibited monopoly activities, lately, the problem related to protection of market freedoms has come to the fore. *“Nowadays, the emphasis is on definition of the prohibited companies’ activities and infringement of competition, regardless of whether such companies are monopolists or not, and not on regulation of formal characteristics based on size or market share.”* (Tabaroši & Jovanović, 2010) Unfair competition should be regulated so as to prevent illegal forms of competition which are based on abuse of market position, certain level of economic power, information asymmetry and deceptive practices.

On the other hand, development of competition also assumes that retailer’s operations to consumers should be regulated. Inadequate behaviour of retailers towards consumers harms not only economic interests of citizens individually, but strongly compromises the interests of competitors and society as a whole. *“Consumer policy, by protecting and strengthening the position of the consumers and better informing them, enables them to make rational choices and thus strengthen competition in markets”* (Dhall, 2008:41). Evidently, *“protection of competition policy and consumer protection policy are complementary and strengthening each other, although with different perspectives and different tools for achievement of the mutual objectives”* (Končar & Stanković, 2012:334). And not only that. In modern trade policy, the integration principle becomes unavoidable: *“consumer protection requirements are to be taken into consideration in defining and implementing other national strategies, policies and activities”* (Lovreta et al., 2013).

Until 2000, trade in Serbia had been developing spontaneously and with no adequate and consistent trade policy. The situation took a turn *“at the beginning of 2000 and it found its stronghold in Trade Strategy adopted in 2003”* (Lovreta, 2009). The following Trade Development Strategy in the Republic of Serbia, adopted in 2009, confirmed the strategic commitment to building a modern market and trade. The defined guidelines were based on the Stabilisation and Association Agreement between the European Communities and their member states of the one part and the Republic of Serbia, of the other part which was signed on April 29, 2008. With this Agreement, Serbia committed to harmonize its legislation with *Acquis Communautaire*, and the trade policy areas were identified as the preferential ones, as follows: protection of competition and control of state aid, intellectual property law, public procurement, standardisation and consumer protection. Since then, much has been done to approximate the trade policy and market in general to standards of the EU single market, and particularly in consumer protection field.

Activities of development and implementation of modern serbian consumer protection policy

The directions for the beginning of modernisation in consumer protection field were defined in accordance with the objectives and tasks defined in the National Program of Consumer Protection in the period 2007-2012 and the Trade Development Strategy until 2012, adopted by the Government of the Republic of Serbia in 2009. These were the grounds for replacing the Law on Consumer Protection from 2005 with a new Law, which was adopted in October 2010 and had been implemented from January 1, 2011.

The new Law on Consumer Protection brought legal regulations adjusted to a changed socioeconomic environment in Serbia and aligned with the EU protection standards. It made a legal basis for the implementation of numerous consumer protection instruments which existed in the developed countries of Europe.

The new Law, which incorporates in national legislation 15 key EU consumer directives, imposed the change of habits, perception and culture patterns. It ensured strengthening of the position of consumers, but also required changes in manner of operating of all the players in consumer protection system, starting with employees in state institutions, inspection bodies, consumer organizations, and especially traders. Traders are now, which was a significant novelty in Serbian legislation, responsible for burden of proof in case of non-conformity in first six months from the day of purchase. The Law defines and stipulates injunctions for unfair contract terms and unfair commercial practices, and emphasis is on out-of-court settlement of consumer disputes and alike. It stipulates precisely obligations of traders to inform consumers before they make decision on purchase, defines the specificity of different consumer contracts (distance contracts, off-premises contracts, services contracts, package tour contracts), but also regulates the legal guarantee.

Upon the adoption of the Law, the related implementing legislation were adopted, among others, Rulebook on the registration of consumer organisations and associations. The Rulebook made it possible to identify relevant partners among consumer organizations for projects financed from the state budget, for representing the consumer interests in counselling bodies and state authorities, and alike. Apart from this, it is significant to mention that the Law on Protection of Financial Services Consumers was adopted in 2011 and that in February 2012 the Law on Civil Proceedings introduced special summary proceedings for consumer disputes.

Following the promotion and completion of legislation framework through intensive harmonization with the EU Acquis, it was necessary to build and strengthen institutional framework, which means, all the institutions in charge of consumer protection system. The competent Ministry then gave priority to building of cooperation and supporting the joint activities of the Ministry and other state institutions, self-government units, consumer organizations and all other institutions in the consumer protection system of the Republic of Serbia. The most important activities for consumers, at that point, were consumer information, advising and assisting consumers in resolving individual

consumers' problems, which were, in accordance with the applicable Law, in charge of consumer organisations.

Following this, the Ministry competent for consumer protection provided budgetary resources and announced competition for allocation of funds for promotion and financing of the public interest programs in the consumer protection field at the end of 2010. This was the first time to allocate funds for establishment and functioning of four regional advisory centers (for the Belgrade Region, Vojvodina Region, Region of Sumadija and Western Serbia and Region of Southern and Eastern Serbia), with major task being the provision of legal aid to consumers through advising and handling consumers' complaints. Four selected consumer organisations, one for each regional advisory center, were granted available budgetary resources in amount of 40.000 EUR.

It should be noted that prior to this, at the end of 2008, the competent Ministry announced the first competition for financing the consumer organisations' projects. Five projects, submitted by different consumer organisations for the topic „Informing and educating consumers“, were granted the available 80.000 EUR. This was followed, in 2009, with a call for proposal with a similar topic „Informing and advising consumers“ when around 43.000 EUR were granted to two projects submitted by two consumer organisations.

After the competition in 2010 “established” regional advisory centers, another one in 2011, with the topic „Support to the work of Advisory centers“, awarded new 73.000 EUR to the competition winners and enabled their continued work. This was followed by the competition in 2012 when around 290.000 EUR were granted to five projects for four regions, enabling thus continuous functioning of four regional advisory centers for two years. With competition in 2014, four consumer organizations, mostly those which had organized work of advisory centers in the previous years, were granted resources in amount of around 60.000 EUR.

Conceived as a support to the work of advisory centers, the Call center within the Consumer Protection Department of the competent Ministry was launched in March 2010, as a focal point for monitoring and assisting the work of regional advisory centers. Furthermore, by calling a toll-free 0800 103 104, consumers can obtain requested information, advice and/or assistance for their problem in a simple and fast manner through redirecting their cases to the one of the regional centers. The Call center was also conceived as a focal point of a single informational system of consumer protection, known as the National Consumer Complaints Register which has been receiving information from the Call center and regional advisory centers from July 2014. The Register will gather information from other sources in future, such as inspecting authorities, other consumer organisations and alike.

In October 2012, the National Council for Consumer Protection was established by the Decision of the Government of the Republic of Serbia, as a counselling body, with the purpose of enhancing the consumer protection system and cooperation of competent organs, organisations and other institutions in consumer protection field. This instrument for creation of a single consumer protection policy consists of representatives of ministries and other

public authorities and other holders of public powers, chamber of commerce, consumer organisations and experts.

Also, in June 2013, the Government of the Republic of Serbia adopted the Strategy for Consumer Protection for the period 2013-2018 with the overall objective to provide consumers with a high level of protection in line with EU standards and practices by 2018, through specific objectives: further improving of legislation, better integration of consumer policy into other national policies, further strengthening of the institutional framework, more effective law enforcement and market surveillance system, empowering consumer associations and individual consumers and development of regional and international cooperation.

Subsequent to this, the new Law on Consumer Protection was adopted, and its implementation started in September 2014. It introduced the new legal provisions which, as it is believed, overcome previous barriers for the implementation of consumer rights. The most important changes are related to collective redress and sanctions for the unfair commercial practices and unfair contract terms.

Finally, it should be noted that the activities for development and implementation of consumer protection policy in the Republic of Serbia are mainly realized with the expert and financial support of the EU funded projects. These are CARDS 2006 – Promotion of consumer protection in the Republic of Serbia, with the budget of 2 million EUR, implemented from September 2007 until October 2010 and IPA 2009 – Strengthening consumer protection in Serbia, with the budget of 2.9 million EUR, implemented from August 2011 until May 2014.

Achieved results in the consumer protection in the Republic of Serbia

The invested efforts produced satisfactory results in terms of promotion of consumer protection in the Republic of Serbia. Extensive researches were conducted in the first quarter of 2013, with the key objective to identify the market players' attitudes toward the activities of the state in the creation and implementation of the key segments of trade policy. The interviewed producers, wholesalers, retailers and consumers rated each of the presented fields (rates from 5 – fully satisfying to 1 – fully unsatisfying). The average rates of producers, wholesalers and retailers are listed in the table below (according to: Stanković, 2014):

Table 1. Rating the role of the state in the terms of creation of modern market conditions for business activity by producers, wholesalers and retailers

<i>Rank</i>	<i>Fields</i>	<i>Average</i>
1.	Consumer protection policy (with the purpose of strengthening the role of consumers in the market competition development)	3.12
2.	Incentive measures for the entry of new (international) trade chains on the Serbian market	3.09
3.	Protection of competition policy (anti-trust legislation and its implementation)	2.80
4.	Involving market players in the creation of legislation framework processes (in formulating legal solutions and policies processes)	2.68
5.	Preventing unfair market competition (development of the ability to recognize and prevent unfair competition) and grey economy	2.52
6.	Preventing abuse of market power of big retailers (impact on the changing of big retailers behaviour)	2.51
7.	Protection of small and medium-sized retailers policy (preventing the decrease of number of small and medium-sized retailers)	2.27
8.	Initiating domestic retail chains to enter foreign markets (internationalization of their business activities)	2.08
Average		2.64

The presented data show that producers, wholesalers and retailers are the most satisfied with the development and implementation of consumer protection policy. This, undoubtedly, confirms that they understand and support the strengthening of consumer's role in the development of market competition. They rated protection of competition policy with lower figure, and the prevention of unfair market competition even lower. The average rates obtained from sample target of 600 consumers interviews on the market of the Republic of Serbia are listed in the table below (Stanković, 2014):

Table 2. Rating the role of the state in the terms of creation of market conditions and taking measures which enable benefits for consumers and protect their interests, by consumers

<i>Rank</i>	<i>Fields</i>	<i>Average</i>
1.	Incentive measures for the entry of new (international) trade chains on the Serbian market	2.96
2.	Strengthening consumer protection (consumers education, change in traders' behavior and strengthening the consumer organizations)	2.89
3.	Providing assistance to consumers in their disputes with traders	2.81
4.	Fight against abuse of dominant position of retailers	2.29
5.	Fight against unfair behavior of retailers and grey economy	2.25
6.	Involving consumers in decision-making processes (to voice consumers' demands)	2.18
7.	Preventing the decrease of number of small and medium-sized retailers and disappearance of their „neighborhood“ markets	2.11
Average		2.50

The Serbian consumers have, also, rated the efforts of the state in strengthening consumer protection above the average rate. This rate, being the second out of 7 rates for different segments of trade policy, shows that consumers were relatively satisfied with the progress made in their education, traders' behavior and strengthening of the consumer organizations. Fourth place is taken by fight against abuse of dominant position, and fifth one by fight against unfair behavior of retailers.

The progress made in the direct assistance to consumers in the period from 2010 to 2014 is presented in the following two tables containing the data of the Serbian Ministry of Trade, Tourism and Telecommunications (2014) which show the results of work of the Call center and regional advisory centers:

Table 3. Comparative review of the number of consumer complaints per type of legal assistance in the period from 2010 to 2013

<i>Type of legal assistance</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>Total</i>
Advice	2.165	4.803	6.855	10.695	24.518
Informal mediation between two sides	181	1.796	1.947	2.382	6.306
Initiation of court proceedings	0	32	32	609	673
Representation of consumers – out-of-court	1	0	0	1	2
Representation of consumers – court	0	3	0	8	11
Total	2.347	6.634	8.834	13.695	31.510

The presented data speak in favour of the achieved results. Within four years, the number of processed consumer complaints in the Call center and advisory centers increased six times.

Table 4. Comparative review of number of consumer complaints per subject of complaint in the period from 2010 to 2013

Subject of complaint	2010	2011	2012	2013	Total
Conformity	626	3.760	7.027	8.486	19.899
Time of delivery	92	129	87	110	418
Guarantee	726	1.340	111	516	2.693
Unfair contract terms	8	25	9	50	92
Right of withdrawal	30	256	167	437	890
Indication of price	13	57	44	121	235
Issuing the bill	39	83	43	1.454	1.619
Precontractual information	57	44	41	97	239
Unfair commercial practice – misleading	136	89	279	841	1.345
Unfair commercial practice – aggressive	8	32	5	34	79
Other	612	819	1.021	1.549	4.001
Total	2.347	6.634	8.834	13.695	31.510

According to the presented data, one might say that significant progress was made in the observed period of time in terms of consumer problems related to guarantees – number related of those decreased, although the total number of

consumer complaints increased. However, the data show that situation concerning unfair contract terms and unfair commercial practice, both misleading and aggressive, is quite unsatisfactory. Few complaints in this area clearly demonstrate the inability to recognize these particular situations. Unfortunately, problems related to e-commerce were not recognized as an individual subject of complaint and we have no available data on consumer problems in this area.

The data of the Ministry of Trade, Tourism and Telecommunications of the Republic of Serbia (2014), presented in the table below, speak in favour of contribution of the latest consumer protection system to the work of inspection bodies.

Table 5. Number of consumer complaints forwarded by the regional advisory centers and the Call center of the Ministry to inspection bodies

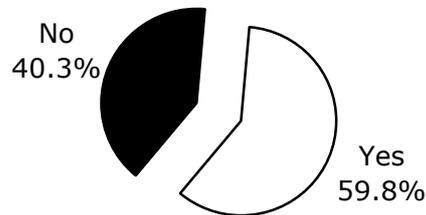
Complaints forwarded to inspection bodies	2012	2013
Market Inspection	77	696
RATEL – Regulatory Agency for Electronic Communications	54	77
Agriculture Inspection	7	72
Veterinary Inspection	7	58
Other	11	74
TOTAL	156	977

Undoubtedly, the six-fold increase of complaints in one year represents a significant progress. Furthermore, almost thousand complaints which were forwarded to the competent inspection body is not negligible number. It is important that those are forwarded by persons competent to recognize the scope of competence of inspection bodies, as well as the actual infringement committed by a trader which should be sanctioned.

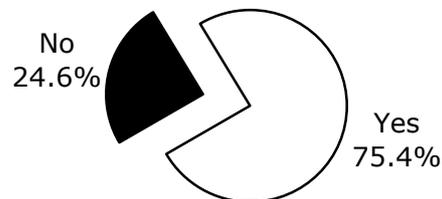
The results of researches conducted within the IPA 2009 project in December 2011 and December 2012 show real progress related to the consumer position. The obtained data are listed in the following graphs (according to: MASMI, 2012 and 2014):

Graph 1. Awareness of Law on Consumer Protection
(In certain countries consumer rights are regulated by Law on Consumer Protection.
According to your knowledge, is there such law in Serbia as well?)

December, 2011



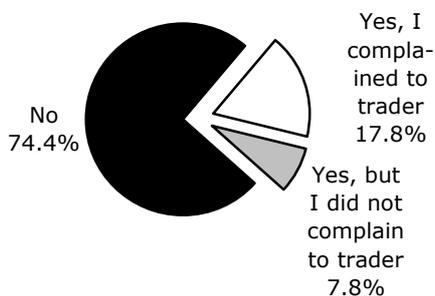
December, 2013



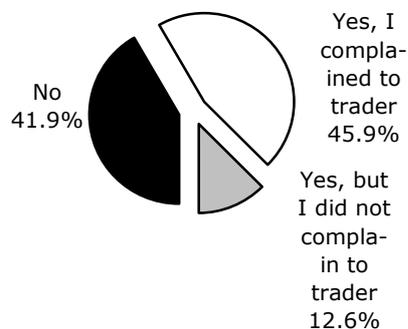
According to the results, it is obvious that invested efforts in consumer education and raising of awareness were worthwhile. The number of those unaware of the Law on Consumer Protection decreased almost by 40%.

Graph 2: Problems with purchased goods or services in the last two years
(Did you have any kind of problem with purchased goods or provided services in the last two years?)

December, 2011



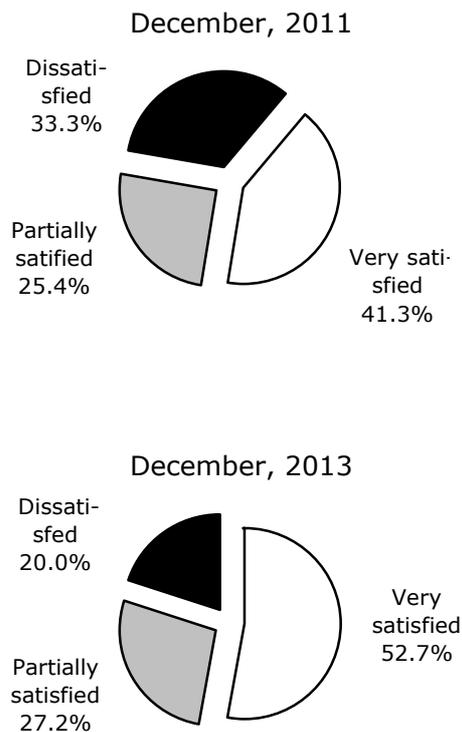
December, 2013



The decreasing percentage of those who had problems with purchased goods and provided services should denote that consumers in Serbia in the

observed period had become considerably more aware of their rights and capability to practice those. Also, the data from December 2013, showing that number of those who complained is 3.6 times higher in comparison to those who did not complain, is encouraging, while this relation in December 2011 was around 2.3 times.

Graph 3. Satisfaction with the manner a trader handled the complaint
(How satisfied are you with the manner a trader handled your complaint?)



Following the invested intensive efforts on development and implementation of consumer protection policy, in the observed period, the number of consumers dissatisfied with the manner a trader handled their complaint decreased for around 40%. At the same time, the number of very satisfied increased for around 28%, and partially satisfied increased for 7%.

Conclusions and suggestions for further development of the trade policy

The presented analysis shows that the previous years can be estimated as successful ones in terms of modern development of trade and market, and particularly consumer protection in Serbia. However, in the following period of its harmonization with the single European market, Serbia should develop and implement more intensively and more decisively full, consistent and modern trade policy. The focus of its individual segments, undoubtedly, should be on

consumers' interest, but at the same time on equality between all the market players. Adoption of different segments of trade policy should be coordinated process, and their implementation conducted in cooperation of all the competent institutions, taking into consideration the knowledge and experience of modern, developed, markets.

Different segments of trade policy overlap and contribute to mutual success or failure in the implementation. This is particularly the case of two highly complementary policies – protection of competition policy and consumer protection policy. Their individual success requires mutual coordination and teamwork of institutions competent for the market development, competitive struggle in retail and increase of benefits for consumers. This specially concerns fight against unfair commercial practices and unfair contract terms, being the priorities of Serbian market. The results of this joint fight would very soon reflect on higher levels in marketing channels as well, provided that all the market players felt the positive effects of strengthening the position and role of consumers.

In that sense, emphasis should be clearly put on the development of out-of-court settlement of consumer disputes and court practice, which, one might say, currently do not exist in Serbia. The extent of transformation of traders' behavior in terms of respecting the rights and interests of consumers as stipulated by the Law on Consumer Protection is quite surprising considering that there is no real threat of out-of-court or court proceedings.

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