

BORISLAV BOYANOV & CO.

ATTORNEYS AT LAW

82, PATRIARCH EVTIMII BLVD.
SOFIA 1463

MAIL@BOYANOV.COM
WWW.BOYANOV.COM

TELEPHONE: (+ 359 2) 8 055 055
FAX: (+ 359 2) 8 055 000

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CHANGES TO THE REGIME OF ADDITIONAL GOODS AND SERVICES GRANTED AS A REBATE

By a decision dated 11.11.2010 the Commission for the Protection of Competition (CPC) supplemented its interpretative decision concerning goods and services offered as a supplement to other goods or services.

The provision of Art. 36, par. 2 of the Protection of Competition Act prohibits offering or granting as a supplement to goods sold or services provided, either free of charge or at an ostensible price, of other goods or services except for:

- advertising items of minor value and bearing a clear indication of the advertising undertaking;
- items or services which according to commercial usage are an attribute to the goods sold or services provided;
- goods or services as a rebate for sales in higher quantities.

Specifically in respect of the third exception there was uncertainty whether offering or granting a natural rebate in the form of *other* goods or services, different from the ones sold (e.g. consumer goods, vouchers etc.) should be reviewed under the third exception, where there is *no specific limit on the value* of the supplement or should be assessed in light of the criteria of the first exception, where the CPC has adopted the view, that the price of the supplement *should not exceed 1/10 of the value of the main goods or services*.

With its interpretative decision the CPC holds, that it will regard as a natural quantity rebate only a supplement of **the same kind of good or service**, as the good or service, to whose sale in greater quantities the rebate relates.

In all other cases, it will be considered that supplements fall within the prohibition of the law, unless they can be exempted under one or the two remaining exceptions. Respectively, if they can be considered advertising supplements, their value should be no higher than 1/10 of the value of the goods or services, whose purchase is required to receive the supplement.

In respect of the goods and services (of the same kind), which will be considered a natural quantity rebate, even though no specific limit has been set for their value, the general prohibition for sale of significant quantities of goods during an extensive period of time below the cost for their production and marketing should be heeded.

The sanctions for these violations are determined as a percentage of the entire annual turnover of the infringing company and can reach up to *10 per cent*.

This message does not represent legal advice. If you have any questions please contact us at mail@boyanov.com.