

ANTIMONOPOLY COMMITTEE OF UKRAINE

ORDER

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REGULATION

**on the Procedure for Approval by the Antimonopoly Committee of Ukraine of Decisions of
Authorities, Administrative and Economic Management and Control Bodies, Local
Self-Government Bodies on Demonopolisation of the Economy, Development of
Competition and Antimonopoly Regulation**

This Regulation is developed in accordance with the requirements of the Law of Ukraine ‘On the Antimonopoly Committee of Ukraine’, the Law of Ukraine ‘On Protection of Economic Competition’ and the State Programme of Demonopolisation of Economy and Development of Competition, approved by the Resolution of the Verkhovna Rada of Ukraine No. 3757-12 as of 21 December 1993, and determines the procedure for mandatory approval by the Antimonopoly Committee (hereinafter - the Committee) and its regional offices (hereinafter - the offices) of decisions of the authorities, administrative and economic management and control bodies, local self-government bodies on demonopolisation of economy, development of competition and antimonopoly regulation. (Indent one as amended by the Orders of the Antimonopoly Committee No. 22-p of 29.01.99, No. 183-p as of 14.06.2002)

1. In this Regulation the term ‘decision’ is used in the following meaning:

draft orders, instructions, regulations, rules, guidelines and other acts adopted by governmental authorities, administrative and economic management and control bodies, local self-government bodies; (Indent two of clause 1 as amended by the Order of the Antimonopoly Committee No. 183-p as of 14.06.2002)

draft decisions of regulatory nature of sessions of regional, district, municipal, district in the city, settlement councils. (Indent three of clause 1 as amended by the Order of the Antimonopoly Committee N 183-p as of 14.06.2002)

The term ‘bodies of the Antimonopoly Committee of Ukraine’ is used in the meaning according to the Law of Ukraine ‘On the Antimonopoly Committee of Ukraine’. (Clause 1 is supplemented with the indent four according to the Order of the Antimonopoly Committee N 183-p from 14.06.2002)

The terms 'authorities', 'bodies of administrative and economic management and control', 'undertaking' shall be used in the meanings according to Article 1 of the Law of Ukraine 'On Protection of Economic Competition'. (Clause 1 is supplemented with the indent five according to the Order of the Antimonopoly Committee N 183-p as of 14.06.2002)

2. The following decisions are subject to approval:

approval of concepts of comprehensive programmes for the development of industries, regions, and individual sectors of the economy;

approval of sectoral and regional programmes of market transformations, demonopolisation of economy, support of entrepreneurship, attraction of foreign investments, republican (Autonomous Republic of Crimea), local privatisation programmes, etc.; (Indent three of itemclause 2 as amended by the Order of the Antimonopoly Committee No. 183-p as of 14.06.2002)

definition or clarification of the functions and powers of associations, concerns, inter-industry, regional and other associations of enterprises, local executive authorities and their structural subdivisions with respect to undertakings;

restructuring of management in the relevant sectors of the national economy or regional economies;

regulation of business activities, in particular, the establishment of restrictions on certain types of business activities, including through the adoption of licensing rules and conditions, etc;

privatisation, corporatisation, lease, management and disposal of property, creation of holding companies, financial intermediaries, etc., in cases provided for by law; (Indent seven of clause 2 as amended by the Order of the Antimonopoly Committee No. 183-p as of 14.06.2002)

centralised distribution of goods, obligation of undertakings to conclude contracts on a priority basis, priority supply of goods to a certain circle of consumers, establishment of prohibitions on interregional sale of goods, other restrictions on the rights of undertakings to purchase and sell goods;

granting, limiting or cancelling tax and other privileges, grants and subsidies for undertakings, and carrying out rehabilitation;

regulation of foreign economic activity;

imposing restrictions on investments, including foreign ones;

determination of production or market volumes, distribution of markets with identification of consumers and suppliers, application of other methods of antimonopoly regulation; (Indent

twelve of clause 2 as amended by the Order of the Antimonopoly Committee N 14-p as of 18.11.94)

establishing the procedure for setting prices and tariffs, marginal profitability standards for the objects of antimonopoly regulation; (Clause 2 is supplemented by the indent thirteenth according to the Order of the Antimonopoly Committee N 14-p as of 18.11.94)

other decisions that may lead to prevention, elimination, restriction or distortion of competition in the respective markets. (Indent fourteen of part one of clause 2 in the wording of the Order of the Antimonopoly Committee N 33-p as of 23.02.2001; amended by the Order of the Antimonopoly Committee N 183-p as of 14.06.2002)

Decisions of authorities, local self-government bodies, administrative and economic management and control bodies on concentration and concerted actions of undertakings shall be adopted with the consent of the Committee in a separate procedure. (Part two of clause 2 as amended by the Order of the Antimonopoly Committee N 33-p as of 23.02.2001; as amended by the Order of the Antimonopoly Committee N 183-p as of 14.06.2002)

3. Decisions of central executive authorities shall be sent to the Committee for approval, other decisions - to the respective offices or, upon their submission, to the Committee.

4. Decisions shall be sent to the Committee (office) with a cover letter signed by the head of the relevant government body, local self-government body, administrative and economic management and control body, and in case of his/her absence - by the official who replaces him/her. The decision may be accompanied by an explanatory note with its justification. The name and telephone number of the employee responsible for the development of the decision shall be indicated on the back of the cover letter. (Clause 4 as amended by the Order of the Antimonopoly Committee No. 183-p as of 14.06.2002)

5. The decision submitted to the Committee (office) shall be considered within 10 days, unless a legislative act or decision of the Government establishes a different term for approval of certain issues.

6. If analytical or other data are required for objective assessment of the decision, they shall be requested in writing by the State Commissioner of the Committee, the Head of the Office, indicating the deadline for their submission. In this case, the time for receiving a response to the request shall not be counted as part of the approval period. In case of failure to submit information, decisions shall be considered on the basis of available documents. (Clause 6 as amended by the Order of the Antimonopoly Committee N 183-p as of 14.06.2002)

7. If necessary, the Committee (office) may conduct additional study (examination) of the consequences of the decision to be approved. In this case, the term for approval of the decision shall be extended by the State Commissioner (Head of the Office) for 10 days, and the developer of the decision shall be notified thereof in writing.

8. Approval of decisions shall be stamped 'Approved', which shall be placed on the left side of the page below the 'Signature' requisite or on a separate approval sheet. The stamp of approval shall indicate the position of the person approving the decision, personal signature, its decoding and date.

If there are any comments, the decision is not approved. Comments of the Committee (office) shall be communicated to the body that developed the decision in writing with the relevant reasoning.

At the initiative of the decision maker, the comments may be discussed in order to reconcile differences.

(Clause 8 as amended by the Order of the Antimonopoly Committee N 183-p as of 14.06.2002)

9. In accordance with the assignment of responsibilities, the approval shall be made by:

Chair of the Committee - decisions signed by the first heads of central executive authorities;

State Commissioners - decisions of central executive authorities, the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, the National Council of Ukraine on Television and Radio Broadcasting, as well as decisions of administrative and economic management and control bodies, which are adopted within the limits of powers delegated to them by these authorities; (Indent three of clause 9 as amended by the Order of the Antimonopoly Committee N 183-p as of 14.06.2002)

Heads of offices - decisions of local executive authorities and local self-government bodies, as well as decisions of administrative and economic management and control bodies, which are adopted within the limits of powers delegated to them by these bodies. (Indent four of clause 9 as amended by the Order of the Antimonopoly Committee N 183-p as of 14.06.2002)

10. In case of disagreement with the conclusions of the State Commissioner, head of the office, the body that sent the decision for approval may apply to the Chair of the Committee for review of comments to the decision.

11. The application shall be considered within the time limits and in accordance with the procedure specified in clauses 5-8 of this Regulation.