

# ***COMPETITION LAW ENFORCEMENT IN THE RETAIL TRADE - CZECH REGULATION ON SIGNIFICANT MARKET POWER***

**Office for the Protection of Competition of the Czech Republic**

**VISEGRAD 4+ COMPETITION CONFERENCE**

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ÚŘAD PRO OCHRANU HOSPODÁŘSKÉ SOUTĚŽE  
OFFICE FOR THE PROTECTION OF COMPETITION

## LEGISLATION

Act no. 395/2009 Coll., on Significant Market Power in the Sale of Agricultural and Food Products and Abuse Thereof

- **DIFFERENT FROM THE COMPETITION LAW CONCEPTS**
  - protection of a **weaker contracting party** (supplier)
  - protection against the abuse of retailer's buyer power – **significant market power**
  - the regulation covers only one economic sector – **national wholesale grocery market**

## ACT ON SIGNIFICANT MARKET POWER

- addresses unilateral abusive conducts of non-dominant undertakings as a **special national regulation** stricter than EU competition law (Art. 8 of Regulation 1/2003)
- **definition of significant market power** - „a position of the buyer, due to which the buyer may enforce an advantage from suppliers in connection with the purchase of food or receiving or providing services related to the purchase or sale of food without just cause“
- **demonstrative list of unfair trading practices (UTP)**
- **imposing penalties** – up to 10 % of net turnover per year

# CONCEPT OF SIGNIFICANT MARKET POWER

## WHO HOLDS SIGNIFICANT MARKET POWER?

- a buyer which represents a significant distribution channel for suppliers
- the significant market power allows the buyer to act independently from suppliers

## HOW IS THE SIGNIFICANT MARKET POWER EXAMINED?

- threshold net turnover of a buyer exceeding CZK 5 billion
- analysis of market position of the buyer according to the legal criteria (market structure, entry barriers, financial strength of the buyer)

## MARKET STRUCTURE

- large **12 retailers** represent over 60 % of the grocery retail market
- **particular market shares** of large retailers are not higher than **15 %** at horizontal level (no dominance „concerns“ from the competition law perspective)
- but the majority of **other retailers** (approx. 22,000 in 2015) have **significantly lower market shares** than large retailers

**THANK YOU FOR YOUR ATTENTION**

[Daniel.Stankov@compet.cz](mailto:Daniel.Stankov@compet.cz)



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