

## A DETAILED PLAN OF INSPECTION OVERSIGHT IN SUPPRESSION OF ILLEGAL TRADE VIA THE INTERNET

When a **competent authority** is defined it enables application of not just statutory provisions that govern its jurisdiction (competencies) in each stage of the process, but also specifies the area of joint jurisdiction of several inspection authorities; or, the area which is outside of their entire jurisdiction.

**Identified irregularities (misconduct)**, as a category, show whether any misconduct occurred in a particular stage in the previous cycle that calls for measures or reinforced oversight in the next cycle.

**Data** about online advertising and **the** results of oversight obtained from the oversight procedure is sent to a government authority that **processes** it and places it in a centralized database that could serve as a basis for taking corrective measures and better preparation of the next cycle of inspection oversight.

This specific document precisely identifies such an authority for each stage of the process.

The competent authorities may ask the entities subjected to the oversight to take conduct **activities** to facilitate the oversight and pursuant to law to suppress illegal online trade. These activities may not substitute for inspection oversight but may facilitate it by identifying critical areas. In order to achieve the appropriate effect the competent authorities must require such conduct without exception of all controlled entities in specific stages.

By defining the **duration of each stage and the period of the year** when it takes place it is possible to obtain a chronological order of activities for the competent authorities to take and thus increase the efficiency of oversight and adequately distribute their resources.

**The complexity of oversight** at a particular stage is a simplified estimate of the resources needed to take a specific oversight measure and how demanding its implementation may be in terms of organization and expertise. The complexity is presented on a scale from one to five where one denotes the most complex oversight activities.

**Effects of the oversight** represent a simplified estimate as to how much a specific oversight activity can influence the results of the control of the entire process, where „the results“ imply increasing compliance of businesses with relevant regulations, or suppression of illegal trade. The effects are presented on a scale from one to five, where the activities with the lowest value are those that are expected to yield the least effects.

The detailed plan would have a special **appendix**, which is not an integral part of the table and which would present measures ordered by the inspection authorities that were taken after the oversight activity. This will provide an overview of activities that have been taken and would enable measuring effects thereof on suppression of illegal trade in the next annual cycle.

	Stage in the process	Government authority overseeing the legality of a particular stage	Irregularities identified (YES/NO)	Processor of the data obtained during the oversight	Activities of entities subjected to the oversight	Duration of the stage and the period during the year when it has been carried out	Complexity of the oversight in the particular stage	Effects of the oversight
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1.	Scanning of publicly available web pages, portals, social networks and identifying advertisements that may lead to unauthorized trading	Market Inspectorate		<p>Send reports to competent inspectorates and oversight bodies in line with their jurisdiction over the trade of specific commodities – e.g., for medicines send reports to the Medicines and Medicinal Devices Inspectorate</p> <p>Also, information about ads needs to be referred to the Tax Administration, the Customs Administration – Enforcement Division and Postal Inspectorate.</p> <p>Data in the report: the number of ads by type of merchandise and advertisement platform - advertiser.</p>		<p>As of 01/02/2019 Trial period – on a weekly basis</p> <p>As of the moment when the software is provided –on a daily basis</p>			
<b>Identifying illegal and online advertising that initiates illegal trade</b>									
2.1.	Identifying <u>unauthorized advertising</u> pursuant to the Law on Advertising for <b>tobacco</b> products.	Market inspectorate	YES/NO			Continuously			
2.2.	Identifying <u>illegal advertising</u> for <b>alcoholic</b> beverages with alcohol content above 20%	Market inspectorate	YES/NO			Continuously			

2.3.	In the case of ads for <b>supplements</b> , identifying illegal trade if the supplements have not been entered into the Register of Dietary Products	Market inspectorate With the assistance of the Sanitary Inspectorate	YES/NO			Continuously		
2.3.1	Updating the existing Register of Dietary Products and quarterly renewals	Sanitary Inspectorate				Q1 2019 and continuous quarterly renewals		
2.4.	Identifying <u>illicit advertising of medicines</u> and <b>medical devices</b> via the Internet <sup>1</sup>	Market Inspectorate  With assistance of  Medicines and Medical Devices Inspectorates	YES/NO	Medicines and Medical Devices Inspectorates		Continuously		
2.5.	Identifying any failures to meet <u>conditions for legal advertising</u> (for prescription drugs and medical devices) – the existence of a license for medicinal products, as well as the approval of ALIMS for the use of promotional material.	Market inspectorate  With assistance of  Medicines and Medical Devices Inspectorate	YES/NO	ALIMS		Continuously		

<sup>1</sup> Advertising medicines issued as prescription drugs at the expense of health insurance; drugs containing narcotics or psychotropic substances; medicines for tuberculosis; medicines for diseases that are transmitted through sexual contact; drugs for infectious diseases; drugs for chronic insomnia; drugs for diabetes and other metabolic diseases.

2.6.	<p><b>Identifying the initiated unauthorized trade</b> (with unpaid tax liabilities, customs duties and violation of intellectual property rights) by means of an ad via the Internet, for <b>goods that a special law has not regulated their advertising and trading</b> (clothing and footwear, consumer electronics, etc.)</p>	<p>Market inspectorate Tax Administration</p>	YES/NO			Continuously			
2.7.	<p><b>Reporting about inspections initiated for illegal advertising on the Internet, as well as unauthorized trade initiated by advertising via the Internet by type of goods</b> (referred to under 2.1.- 2.5)</p>	<p>Market Inspectorate Medicines and Medical Devices Inspectorate</p>		<p>Postal Inspectorate Customs Administration – Enforcement Division Tax Administration  Sanitary Inspectorate</p>		Every six months			
<b>Dealing with advertising platforms and advertisers</b>									

3.1	<p><b>Actions in the case when irregularities are identified under 2.1- 2.5. (ads for tobacco, alcohol, medicines and medical devices, supplements, violation of the intellectual property rights):</b> Identifying the persons behind the mediums for dissemination of ads as well as the advertisers, the initiators of the ads and social media accounts, and issuing orders for <b>removal of ads</b> the content of which is in contravention of the provision of the Law on Advertising and the Law on E-Commerce.</p>	<p>Market Inspectorate</p> <p>In cases that concern medicines and medical devices in cooperation with the Medicines and Medical Devices Inspectorate</p> <p>If it's a criminal offense, Mol Prosecutor's Office for Cyber Crime</p>		<p>If it's a criminal offense, Mol Prosecutor's Office for Cyber Crime</p>	<p>Checking and removing ads the contents of which are contrary to the provisions of the Law on Advertising and the Law on E-</p> <p>Referring the data to the competent authorities to detect and prosecute the offenders, or protect the rights of third parties.</p>	Continuously		
3.2.	<p>Actions in the case of unauthorized advertising via platforms or accounts <b>registered abroad containing adds intended for citizens of Serbia</b> - if it's a criminal offense with assistance of the Mol and Prosecutor's Office; for violation of rights other than criminal offenses – sending reasoned orders to the platforms/social media to remove the ads</p>	<p>Market Inspectorate, Tax Administration,</p> <p>If it's a criminal offense, Mol Prosecutor's Office</p>		<p>Ministry of Foreign Affairs –mutual legal assistance</p> <p>Serbian National Internet Domain Register's requests referred to associations in other countries</p>		Continuously		

3.3.	Actions in the case when the advertiser does not respond to the request of the competent authority to remove the ad and refer the data – <b>initiation of misdemeanor proceedings and imposing protective measures pursuant to the Law on Advertising or the Law on Medicines and the Law on Medical Devices</b>	Market Inspectorate  In cases that concern medicines and medical devices with assistance of the Medicines and Medical Devices Inspectorate		Cyber Security Inspectorate, Market Inspectorate  If it's a criminal offense notifying MoI and Prosecutor's Office				
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<b>Coordination and On-Sight Inspection/Audit</b>								
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4.1	Plan of on-sight audits within a coordinated joint oversight by type of merchandise advertised via the Internet (the report referred to under 2.7.)	Market Inspectorate And Tax Administration  Medicines and Medical Devices Inspectorate  Sanitary inspectorate  Agricultural Inspectorate  Cyber Security Inspectorate  Postal Inspectorate  Customs Administration – Enforcement Division  Phytosanitary Inspectorate		Commission for Coordination of Inspection Oversight  As necessary – Prosecutor's Office  MoI		Annually, with semiannual reviews		
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4.2.	Ad hoc coordination of activities carried out by the Market Inspectorate and the Customs Administration in order to identify illegal trade initiated by Internet advertising <b>Imported goods -</b> The Customs Administration refers the data about the identified importer.	Market Inspectorate		Customs Administration – Enforcement Division	Referral of the data within 48 hours about the total import of the importer in a period of 3 months, paid customs duties			
4.3.	Initiating extraordinary oversight for frequently imported goods on the basis of the Market Inspectorate's requests	Customs Administration – Enforcement Division Postal Inspectorate Market Inspectorate		Market Inspectorate				
4.3.	During on-sight audits market inspectors check the availability of the storage space and notify the Tax Administration when they don't find any	Market Inspectorate		Tax Administration				
4.	During on-sight audits of <b>alcohol products</b> , checking the excise stamp numbers and referral of information to the Tax Administration	Market Inspectorate		Tax Administration				

4.5.	Actions in the case that the illegal trade of goods and service via the Internet has been categorized as a criminal offense – for which a <b>criminal complaint</b> has been filed	Market Inspectorate Prosecutor's Office Mol Tax Police						
<b>Overseeing the delivery of goods</b>								
5.	Delivery of goods ordered over the Internet and payment by delivery - a special plan for overseeing courier and express mail operators on the basis of the report referred under 2.7.	Postal Inspectorate		Market Inspectorate, Customs Administration – Enforcement Division, Competent inspectorates depending on the type of goods dispatched by the courier service		Annual plan for overseeing the goods advertised via the Internet (on the basis of the report referred under 2.6)		
<b>Reporting</b>								
6.	Annual report on inspection oversight of the competent inspectorates and regulatory bodies on illegal trade initiated via the Internet	Market Inspectorate Postal Inspectorate Tax Administration Medicines and Medical Devices Inspectorate Customs Administration – Enforcement division Cyber Security Inspectorate		Commission for Inspection Oversight and if necessary Prosecutor's Office for Cyber Crime, Mol		Annually		

## SUGGESTIONS FOR IMPROVEMENT OF OVERSIGHT AND OUTCOME OF COURT PROCEEDINGS

1. **Designate contact persons (and make their contact information available) on behalf of each competent inspectorate and regulatory body, to enable information sharing, coordination and cooperation (by January 15, 2019).**
2. Pass the Proposed Law on Postal Services into law (has been in the parliamentary procedure since November 29, 2017) given that the identification of senders and recipients (which is the provision in the Proposed Law) would significantly facilitate gathering evidence in cases of illegal trade via the Internet.
3. The Model of the Request for Information about identified importers made by the Customs Administration in cooperation with the Market Inspection should include information about a natural person or a legal entity that concerns a particular period as follows: No. of the document for customs clearance, date of filing of the document, sender, recipient, declarer, tariff code, quantity of goods, value of goods, currency, invoice number and the like.
4. Introduce reporting of the inspectorates and regulatory bodies about illegal trade via the Internet. Market Inspectorate should develop the first draft of such a report by February 1, 2019.
5. Periodical reporting of the Prosecutor's Office about the course of the cases initiated (analyzing them and sending feedback on measures to improve gathering evidence, presentation of evidence, etc. – Mol, PP, competent inspectorates).
6. Update the **Register of Dietary Products**, maintained by the Sanitary Inspectorate, and develop models for online update of this register.
7. **Urgently fill vacancies in the Medicines and Medical Devices Inspectorate (approved 7 people, 4 currently working).** On the basis of the findings of the functional analysis of the inspectorates' capacity, propose a further increase in the number of employees in 2019 and one job position for an employee who would specialize in illegal trade via the Internet.
8. Urgently fill vacancies in the Postal Inspectorate and enable specialization in overseeing e-commerce given that delivery of most goods ordered via the Internet is done through courier services.