



Republic of Serbia
**COMMISSION FOR PROTECTION
OF COMPETITION**

25 Savska St, 4th Floor, Belgrade

Number: 4/0-01-574/2020-1

Date: September 1, 2020

Pursuant to Article 35(2) of the Law on Protection of Competition (Official Gazette of the RS, 51/2009 and 95/2013), the President of the Commission for Protection of Competition enacts the following

CONCLUSION

I PROCEEDINGS SHALL BE INITIATED *ex-officio* to undertake investigations of alleged infringements of competition law **against** company:

Comtrade Distribution d.o.o. Beograd, company number 17172140, with registered office at 7 Savski nasip St., Belgrade-New Belgrade, represented by Nebojša Uskoković, CEO,

in order to establish the existence of an infringement of competition referred to in Article 10 of the Law on Protection of Competition.

II All persons in possession of data, documents or other relevant information that could contribute to the accurate fact-finding in this proceedings are invited to submit said evidence to the Commission for Protection of Competition at 25 Savska St., Belgrade.

III This conclusion shall be published in the Official Gazette of the Republic Serbia and on the website of the Commission for Protection of Competition.

Exposition

Based on the Eurostat data for 2019, the Commission for Protection of Competition (hereinafter, the Commission) has established that the prices of consumer electronics in the Republic of Serbia were by 13 percent higher than the EU average. For example, the prices of certain product categories in the Republic of Serbia, such as TV sets, were by 33-39 percent higher than the prices in Hungary, where the current value-added tax (VAT) rate is set at 27 percent, while the VAT rate in the Republic of Serbia currently stands at 20 percent. Furthermore, the prices of consumer electronics in Hungary were below the EU average by 2.5 percent.

In light of the findings above, the Commission has analyzed the conditions of competition on the wholesale and retail market for consumer electronics in the Republic of Serbia. Accordingly, and upon consulting the public data on prices, it is established that in retail outlets, as well as in online sales of related retailers, Tesla TV sets are sold at identical or nearly identical prices.

Upon examination of official internet presentations of 10 retailers of consumer electronics, it is established that all observed retailers have set identical prices for 5 models of Tesla TV sets. By way

of illustration, all 10 observed retailers have offered the 32T303BH and 43S605BFS models at 14,990 and 29,990 dinars, respectively. The price of other observed TV models varied by up to 5%.

The Commission has established that the Tesla brand is owned by company Comtrade Distribution d.o.o. Beograd, company number 17172140, with registered office at 7 Savski nasip St., Belgrade-New Belgrade, represented by Nebojša Uskoković, CEO (hereinafter, company Comtrade Distribution), which solely or via an affiliated company within the meaning of Article 5 of the Law on Protection of Competition (Official Gazette of the RS, 51/2009 and 95/2003 – hereinafter, the Law) is active on the wholesale market for the product concerned as well.

Based on the above, and owing to the fact that the prices of Tesla TV sets on the market of the Republic of Serbia are identical or nearly identical, the Commission found reasonable grounds to believe that they are the result of an act of infringement of competition in terms of resale price maintenance on the part of company Comtrade Distribution, as the Tesla brand owner. Based on the analysis and assessment of the information collected, the Commission found reasonable grounds to believe the existence of an infringement of competition within the meaning of Article 10 of the Law, i.e., that company Comtrade Distribution in the previous five years, and in particular during 2019 and 2020, has affected the resale prices of products under the brand that it owned.

Pursuant to Article 10 of the Law, restrictive agreements are agreements between undertakings which as their purpose or effect have a significant restriction, distortion, or prevention of competition in the territory of the Republic of Serbia. Article 10(2) of the Law stipulates that restrictive agreements may include contracts, certain contract provisions, express or tacit agreements, concerted practices, as well as decisions of associations of undertakings, which in particular, directly or indirectly, set the purchase or selling prices or other conditions of trade, as well as other actions and acts listed therein.

Article 35(1) of the Law stipulates that the Commission may institute an *ex officio* proceedings to investigate the infringement of competition when based on antitrust complaints, information and other available data finds reasonable grounds to believe the existence of competition infringement. Given the assessment of the fulfillment of conditions for instituting proceedings *ex officio* referred to in Article 10 of the Law, it is decided as in Paragraph I of enacting terms herein.

Pursuant to Article 41 of the Law, the Commission may undertake all necessary probative activities aimed at achieving accuracy in fact-finding, investigate the existence of acts of infringement of competition, and enact a final decision on the existence of an infringement of competition upon closing of the investigation procedure.

Pursuant to the provisions of Article 35(2) of the Law, it is decided as in Paragraph II of enacting terms herein.

Pursuant to the provision of Article 40(1) of the Law, it is decided as in Paragraph III of enacting terms herein.

Instruction on legal remedy:

This conclusion is not susceptible to special appeal, but is permitted to institute an administrative dispute against the final decision of the Commission in this administrative matter.

PRESIDENT OF THE COMMISSION

Nebojša Perić