



Republic of Serbia
**COMMISSION FOR PROTECTION
OF COMPETITION**
25 Savska St, 4th Floor, Belgrade
Number: 4/0-01-580/2020-1
Date: September 4, 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:

SF1 Coffee Društvo sa ograničenom odgovornošću za trgovinu i usluge Novi Sad, company number 21388513, with registered office at 12 Kralja Aleksandra St., 3rd Floor, App. No. 57, Novi Sad, represented by Aleksandar Surla, 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, 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 are 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, are 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 are 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 the retailer concerned, Nespresso coffee machines are sold at identical or nearly identical prices.

Upon examination of official internet presentations of 6 retailers of consumer electronics, it is established that all observed retailers have set identical prices for 4 models of Nespresso coffee machines. By way of illustration, all 6 observed retailers have offered the Essenza model at 11,990 or 11,999 dinars, and the Citiz model at 18,990 or 18,999 dinars.

The Commission has established that the importer and distributor of Nespresso coffee machines is company SF1 Coffee Društvo sa ograničenom odgovornošću za trgovinu i usluge Novi Sad, company number 21388513, with registered office at 12 Kralja Aleksandra St., 3rd Floor, App. No. 57, Novi Sad, represented by Aleksandar Surla, CEO (hereinafter, company SF1 Coffee), active on the wholesale and retail markets for the products concerned.

Based on the above, and owing to the fact that the prices of Nespresso coffee machines 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 practices carried out by company SF1 Coffee as an importer and distributor of the products concerned. 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 on Protection of Competition (Official Gazette of the RS 51/2009 and 95/2013 – hereinafter, the Law), i.e., that company SF1 Coffee in the previous five years, and in particular during 2019 and 2020, has affected the resale prices of products under the brand that it had distributed.

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 *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