



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

25 Savska St., 4th Floor, Belgrade

Number: 7/0-04-347/2021-2

Date: March 29, 2021

MINISTRY OF TRADE, TOURISM AND TELECOMMUNICATIONS

22-26 Nemanjina St.
Belgrade

The Ministry of Trade, Tourism and Telecommunications has submitted to the Commission for Protection of Competition the Proposal for the Conclusion adopting the Negotiating Position of the Republic of Serbia for Negotiation Chapter 10 - Information society and media, with explanatory memorandum and text of the Negotiating Position, in Serbian and English, for an opinion. In addition to the documents, the Financial Impact Assessment (FIA) form was provided.

The Council of the Commission for Protection of Competition, after considering the documents submitted, pursuant to Article 22 read in conjunction with Article 21(1/7) of the Law on Protection of Competition (“Official Gazette of the RS”, Nos. 51/2009 and 95/2013), and Article 19(1/1) of the Statute of the Commission for Protection of Competition (“Official Gazette of the RS”, No. 49/2010), at the 45th session held on March 29, 2021, delivers the following

OPINION

In the text proposal of the Negotiating Position of the Republic of Serbia for the Intergovernmental Conference on the Accession of the Republic of Serbia to the European Union for Negotiation Chapter 10 – Information society and media, in point II 1.1. Electronic Communications and Information and Communications Technologies (ICT), in the segment that contains an overview of regulations adopted under the Law on Electronic Communications (“Official Gazette of the RS”, Nos. 44/2010, 60/2013 – CC decision, 62/2014 и 95/2018 – as amended), on page 6, second paragraph, a description of powers of the Regulatory Agency for Electronic Communications and Postal Services (RATEL) is provided. The paragraph closes with a sentence, which reads as follows:

“In this manner, the introduction and efficient implementation of key *competition measures* in ex ante regulatory procedures is ensured.”

The Commission for Protection of Competition (hereinafter, the Commission) notes that the wording of the sentence referred to above, due to its vague formulation, may cause misinterpretations.

Specifically, the Law on Protection of Competition (“Official Gazette of the RS”, Nos. 51/2009 and 95/2013 - hereinafter, the Law) governs competition on the market of the Republic of Serbia and gives the Commission the power to set measures for protection of competition, measures to eliminate competition infringements or other administrative measures prescribed by the Law if it finds competition infringements or other violations of the Law.

Accordingly, protection of competition is within the competencies of the Commission, including the setting of measures for protection of competition.

In that regard, to ensure legal certainty and avoid potential misinterpretations, we propose to rephrase the sentence **so that the wording “competition measures” would be omitted**. Alternative wording could be as follows:

“In this manner, the introduction and efficient implementation of key measures to safeguard and develop competition in ex ante regulatory procedures is ensured.”

The Council of the Commission has no further objections to the documents provided from the perspective of competencies of the Commission for Protection of Competition.

Concerning the request for filling in the FIA form, we note that the form is not applicable to the Commission as this institution is not a budget user or has financial liabilities in the context of implementing measures and obligations from the Negotiating Position that is the subject matter of this Opinion.

PRESIDENT OF THE COMMISSION

Nebojša Perić