



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

25/IV Savska Street, Belgrade
Number: 4/0-01-650/2022-1

Pursuant to Article 35, paragraph 2 of the Law on Protection of Competition (“Official Gazette of the Republic of Serbia” no. 51/2009 and 95/2013), the President of the Commission for Protection of Competition hereby issues the following

CONCLUSION

- I** The ex officio, competition violation investigation **PROCEDURE IS INITIATED against the following related undertakings:**

Apcom CE Kereskedelmi Korlátolt Felelősségű Társaság, from Hungary, with registered seat in Budapest, at: Ángel Sanz Briz út 13. D. ép, registration number 01-09-709868, with legal representative Sonia El Alia,

and

APCOM DISTRIBUTION PREDUZEĆA ZA TRGOVINU I USLUGE D.O.O., BEOGRAD (NOVI BEOGRAD), registration number 17483927, with registered seat at: Bulevar Mihaila Pupina 6, Novi Beograd, represented by the director, Branka Čander,

in order to determine existence of violation of competition from Article 10 of the Law on Protection of Competition.

- II** All persons having data, documents or other relevant information that may be significant for determining the factual situation in this procedure, are hereby invited to submit them at the address of the Commission for Protection of Competition, Savska 25 / IV, Belgrade.
- III** This conclusion shall be published in the “Official Gazette of the Republic of Serbia” and webpage of the Commission for Protection of Competition.

R a t i o n a l e

The Commission for the Protection of Competition (hereinafter referred to as: analyzed competition status on the market of (1) mobile telephones and tablets, (2) smart watches, (3) accessories (headphones and wireless headphones), (4) smart TV boxes and (5) peripherals (keyboards and mice), among others, for Apple products in the Republic of Serbia. On this occasion, through insight into publicly available data, it has been concluded that the prices of certain Apple products in the Republic of Serbia are unified with observed retailers of this brand, regardless of whether retailers have certain status of Apple authorized dealer or not, and regardless of sales channel, that is, whether it is classic sales in bricks and mortar stores or online sales.

For illustration purposes, it has been determined that the computer mouse, marked with Apple Magic Mouse 3, according to publicly available data, with six retailers in the Republic of Serbia, including iSTYLE, the price was almost identical and it amounted from 12.490,00 until 12.500,00 dinars. Also, it has been noted that with retailers that offered the observed product (four out of six), the price of smart watch Apple Watch Series 7 - 41 mm was almost identical (maximum price difference was 10.00 dinars) and it was between 62.390,00 dinars to 62.400,00 dinars. Also, the price for MacBook Pro computer: M2 256GB was from 218.590,00 to 218.599,00 (four out of six observed retailers offered the aforementioned product), while mobile phone marked with Iphone 11 128GB (in black and white color) was offered by four out of six retailers per identical price of 87,590.00 dinars, while mobile phone Iphone 13 PRO 128GB (blue) was priced at 160.390,00 dinars with five out of six investigated retailers. Further, it has been determined that with four out of six observed retailers, computer MacBook Pro 14,2"/M1 Pro/16 GB-512 GB SSD was priced at 301.490,00 dinars, while with the fifth retailer this computer was 301.999,00 dinars. Similar situation was present with computer MacBook Pro 16" whose price with four retailers was 367.790,00 dinars, while with the fifth retailer the price for this computer was 367.999,00 dinars.

Related to retailers status, on the webpage of PREDUZEĆE ZA TRGOVINU I USLUGE ISTYLE STORES DOO BEOGRAD (hereinafter referred to as: ISTYLE), it has been noted that his company is the largest "Apple Premium Reseller" chain in as many as nine countries of Central and Eastern Europe, including Serbia. Based on publicly available data it has been concluded that the prices of the Apple brand in retail shops of ISTYLE in the Republic of Serbia are higher than the prices of identical products in retail stores of ISTYLE in Slovenia, Bulgaria, Hungary, Romania, Croatia and Macedonia (all prices excluding VAT which is different in different countries).

The table below compares publicly available prices of certain Apple products in retail stores of ISTYLE in observed countries¹

	SLOVENIA	BULGARIA	SERBIA	CROATIA	HUNGARY	ROMANIA	MACEDONIA
Apple Watch Series 7 - 41mm	42,144.93	40,909.05	52,000.00	42,918.72	37,771.65	42,490.55	43,780.51
MacBook Pro: M2 256GB	166,366.65	163,636.20	182,158.33	170,464.32	153,519.69	156,251.05	156,492.37
Iphone 11 128GB – White	64,853.16	63,386.55	72,991.67	66,006.72	55,488.19	57,838.24	67,611.02
Iphone 11 128GB – Black	64,853.16	63,386.55	72,991.67	66,006.72	55,488.19	57,838.24	67,611.02
Iphone 13 PRO 128GB – Blue	118,255.99	116,833.05	133,658.33	120,918.72	100,370.08	115,736.34	124,288.98

Based on publicly available data, the Commission determined that the Apple products in Serbia are present through distribution and retail channel. Apcom Distribution d.o.o. Bulevar Mihaila Pupina 6, Novi Beograd (hereinafter referred to as: Apcom) is present on the market of the Republic of Serbia, that, in line with information from the webpage of this company, is the "Apple Value Added Distributor" in charge of market development, marketing, sales, and support to Apple and related products. Through the review of the register of the Business Registers Agency², the Commission determined that the company APCOM CE LIMITED from Cyprus, with seat in Limassol, Chrysanthou Mylona, 3, P.S. 3030, registration number HE 279888 (hereinafter referred to as: Apcom Cyprus) is the owner of 97% of share of Apcom, while the other member of the company is Branka Čander, natural person from Slovenia, who is the legal representative of the company.

¹Prices in the previous period (the same day) collected from webpages of all companies in countries stated in the table, presented in dinars (RSD) excluding VAT

²<https://pretraga2.apr.gov.rs/EnterpriseWebSearchWeb/Details/Details?beid=1047775&rnd=31FDFCC8FF32BC4006C5BFB46A2C803BA10C5DF3>

The Commission, based on data on import of Apple products in the Republic of Serbia received from Customs Administration determined that the observed retailers stated in the table import Apple products from Apcom CE Kereskedelmi Korlátolt Felelősségű Társaság from Hungary, with seat in Budapest, Ángel Sanz Briz út 13. D. ép. (hereinafter referred to as: Apcom CE). Through the review of the webpage of the Ministry of Justice of Hungary³, the Commission determined that Apcom Cyprus is the member of Apcom CE.

Based on presented data on ownership structure, that is, common parent company of Apcom and Apcom CE it has been determined that these companies are related undertakings in the sense of article 5 of the Law on Protection of Competition (“Official Gazette of the Republic of Serbia”, number 51/2009 and 95/2013, hereinafter referred to as: Law) which is why the Commission observes them as single undertaking.

Considering all aforementioned, due to the fact that the prices of Apple products on the market of the Republic of Serbia are higher compared to neighboring countries, and unified on the retail market on the territory of the Republic of Serbia, the Commission presumed justifiably that they are the result of competition violation actions in the form of setting resale prices by related undertakings. Namely, since it has been determined for one related undertaking that it represents the supplier of Apple products for observed retailers on the territory of the Republic of Serbia, and for the other, that it is in charge for market development, marketing, sales and support to Apple and related products, based on the analysis and evaluation of collected data, the Commission justifiably presumed violation of competition in the sense of Article 10 of the Law, that is, that Apcom and Apcom CE set resale prices for Apple products.

Restrictive agreements are, in line with provisions of Article 10 of the Law, those agreements between market participants whose aim or consequence is to significantly limit, distort or prevent competition in the territory of the Republic of Serbia. Article 10, paragraph 2 of the Law sets forth that restrictive agreements can be contracts, certain provisions of the contract, explicit or tacit agreements, agreed practices, as well as decisions on the form of association of market participants, which, in particular, directly or indirectly determine purchase or sale prices or other terms of trade, as well as other actions and acts stated in this legal provision.

Article 35, paragraph 1 of the Law prescribes that the Commission initiates the procedure of investigation of competition violation ex officio, when, based on submitted initiatives, information and other available data, it can be presumed the existence of competition violation. Since, based on all previously stated, it can be presumed that competition violation exists from Article 10 of the Law, and since in line with Article 5 of the Law, related undertakings are considered a single undertaking, the decision has been made as stated in the wording of paragraph I of this Conclusion.

The Commission shall, in the investigation procedure, in line with Article 41 of the Law, undertake all necessary evidentiary actions in order to correctly determine the factual situation, examine the existence of a competition infringement, and make a final decision upon finalization of the procedure.

Article 39, paragraph 4 of the Law regulates that during the procedure against undertakings that are considered related in line with Article 5 of the Law, submission to one undertaking shall be considered submission to all related undertakings.

In line with this provision, the delivery of acts of the Commission shall be to Apcom, and it shall be considered that such delivery has been performed to Apcom CE as well.

³<https://www.e-ceggyzek.hu/?cegadatlap/0109709868/TaroltCegkivonat>

In line with provisions of Article 35 paragraph 2 of the Law, decision has been made as stated in the paragraph II of the wording of this Conclusion.

In line with Article 40 paragraph 1 of the Law, decision has been made as stated in the paragraph III of the wording of this Conclusion.

Legal remedy:

Separate appeal is not allowed against this Conclusion, and it can be disputed in the administrative procedure by filing a suit against the final decision of the Commission in this administrative matter.

PRESIDENT OF THE COMMISSION

Nebojša Perić