

## Republic of Serbia

### COMMISSION FOR PROTECTION OF COMPETITION

Number: 5/0-02-50/2014-38

Date: November 14, 2014

Belgrade

Pursuant to Article 58(9) of the Law on Protection of Competition (“Official Gazette of the Republic of Serbia, no. 51/09 and 95/2013) and Article 192 of the Law on General Administrative Procedure (“Official Gazette of the Federal Republic of Yugoslavia, no. 33/97 and 31/01, and “Official Gazette of the Republic of Serbia”, no. 30/2010), deciding on the request for adjournment of proceeding submitted by Telecommunication company “Telekom Srbija”, joint-stock company, with registered head-office at 2, Takovska Street, Belgrade, against power of attorney by legal representative Predrag Ćulibrk, General Manager, via power of attorney by Slobodan Kremenjak, lawyer, 37, Kralja Milutina Street, Belgrade, and other lawyers from Živković Samardžić Law Office, 30, Makedonska Street, Belgrade, the Council of the Commission for Protection of Competition on its 4<sup>th</sup> Session held on November 14, 2014, enacts the following

### CONCLUSION<sup>1</sup>

**I** The procedure of investigation of competition infringement **IS ADJOURNED** instituted ex officio against the Telecommunication company “Telekom Srbija”, joint-stock company, with registered head-office at 2, Takovska Street, Belgrade.

**II COMMITMENTS ARE DETERMINED** to the undertaking from Paragraph I of enacting terms of this conclusion, to:

- 1) when determining the proposal of new and/or amending current service costs related to the retail sale of *ADSL* broadband Internet access via copper twisted pair cable that is vertically integrated with the wholesale service market of *ADSL* broadband Internet access via copper twisted pair cable, in determining the “price/margin squeeze” use the “equally efficient operator” test;
- 2) (...)
- 3) not to enact and/or alters current prices related to the retail sale of *ADSL* broadband Internet access via copper twisted pair cable that would be lower than costs, including a reasonable profit margin, calculated in accordance with the “equally efficient operator” test;

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<sup>1</sup> The act contains protected data. Protected data are marked using symbol (...) or in range the Commission finds to be an appropriate manner of protection.

- 4) ratio between unit prices of direct access to the Internet and leased bandwidth that is implemented towards its wholesale users, to be likewise implemented when calculating prices of direct Internet access in its retail sector, whereby the offer for users shall be formed based on market terms and conditions;
- 5) do not offer discounts for the wholesale service of *ADSL* broadband Internet access via copper twisted pair cable that would be conditioned to the coincident purchase of direct Internet access service in the wholesale;
- 6) keep the following options as part of an offer:
  - to conclude or renew contracts whose subject is the wholesale service of direct Internet access for international connection for limited time period as per buyer's option (one, two or three years), and
  - to renew contracts whose subject is the wholesale service of direct Internet access for international connection prior to its expiry and for period less than three years (not less than the remaining period to termination of contract that is being renewed).
- 7) in case of continued validity of provision from the wholesale service of direct Internet access for international connection stipulating automatic continuation of duration period to subsequent three year for each increase in bandwidth, to offer an annex in accordance with the options prescribed under Item 6).

**III DEADLINE IS DETERMINED to two (2) years** from the date of receipt of the conclusion based on which the undertaking from Paragraph I of enacting terms of this conclusion is obliged to execute commitments from Paragraph II of enacting terms of this conclusion.

**IV IS ORDERED** to the undertaking from Paragraph I of enacting terms of this conclusion to within 15 days period from the date of receipt of this conclusion initiate execution of commitments from Paragraph II of enacting terms of this conclusion.

**V IS ORDERED** to the undertaking from Paragraph I of enacting terms of this conclusion to every six (6) months from the date of receipt of this conclusion, submit periodical reports on fulfillment of commitments from Paragraph II of enacting terms of this conclusion for the whole duration of time period determined in Paragraph III of enacting terms of this conclusion.

**VI IS ORDERED** to the undertaking from Paragraph I of enacting terms of this conclusion to submit periodical reports from Paragraph V of enacting terms of this conclusion, that comprise of:

- table summary review of individually effected tests of Equally efficient operator – EEO, conducted for every new and/or altered current price of retail sale of *ADSL* broadband Internet access via copper twisted pair cable in period related to the submitted report, and
- legal representative statement confirming the following in the reported period:
  - discounts for the wholesale service of *ADSL* broadband Internet access via copper twisted pair cable that would be conditioned to the coincident purchase of direct Internet access service in the wholesale, are not introduced, and
  - options listed in Item 4 related to the Automatic renewal of contracts on direct Internet access in case of increase in bandwidth, are kept in

offer.

**VII IS ORDERED** to the undertaking from Paragraph I of enacting terms of this conclusion to submit information on:

- market conditions;
- parameters and factors influencing the price setting for direct Internet access;
- bandwidth and price implemented towards its own retail;
- changes in elements of standard offer published for the wholesale service of *ADSL* broadband Internet access via copper twisted pair cable, of importance for fulfillment of order;
- possible amendments of the Rulebook on application of the cost-accounting principle, separate accounts and reporting by an operator with significant market power in the electronic communications sector (“Official Gazette of the RS”, no. 52/11);

for the whole period determined in Paragraph III of enacting terms of this conclusion.

VIII The undertaking from Paragraph I of enacting terms of this conclusion **IS OBLIGED** to via (...) submit reports and information from Paragraph VI and VII of enacting terms of this conclusion.

IX This conclusion shall be published on the Internet page of the Commission.