

Republic of Serbia

COMMISSION FOR PROTECTION OF COMPETITION

Number: 4/0-02-460/2012-93

Date: October 25, 2012

Belgrade

Pursuant to Article 22(2), Article 25(5), and Article 74 of the Law on Protection of Competition (“Official Gazette of the Republic of Serbia, no. 51/09), 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), and Decision of the Council of the Commission for Protection of Competition on election of person with implied authority of the President of the Council no. 1/0-07-715/2012-1 from October 4, 2012, acting on enforcement of ruling of the Administrative Court no. 1 Y.1582/12 from June 25, 2012, and deciding on the renewed proceedings of competition infringement – prohibited restrictive agreement pursuant to Article 10 of the Law on Protection of Competition instituted ex officio against: Idea d.o.o. company for domestic and international trade, with registered head-office at 11a, Autoput za Zagred, Belgrade, against power of attorney by Aleksandar Seratlić, General Manager, via power of attorney by Rastko Petaković, lawyer, and Karanović&Nikolić Law Office, with registered head-office at 23, Resavska Street, Belgrade, Swisslion Group d.o.o., with registered head-office at 42, Partizanska Street, Novi Sad, against power of attorney by Goran Kutrički, Steering Committee President, Swisslion Takovo d.o.o. Beograd Group, with registered head-office at 4, Vaska Pope Street, Belgrade, against power of attorney by Vuk Rončević, General Manager, Swisslion d.o.o. Beograd, with registered head-office at 4, Vaska Pope Street, Belgrade, against power of attorney by Dušanka Skoko Baljak, General Manager, Takovo a.d. Gornji Milanovac company, with registered head-office at bb, Radovana Grkovića Street, Gornji Milanovac, against power of attorney by Miroslav Jovičić, General Manager, and Takovo Agrar d.o.o. Gornji Milanovac – in bankruptcy, with registered head-office at bb, Radovana Grkovića Street, Gornji Milanovac, against power of attorney by Gordana Hadžić, Bankruptcy Manager, all represented via the joint power of attorney by Mladen Avramović, lawyer, from Avramović i Partneri OD Law Office, with registered head-office at 31, Sarajevska Street, Belgrade, the Council of the Commission for Protection of Competition on its 111th Session held on October 25, 2012, enacts the following

DECISION

1. IS DETERMINED that provision under Item 1 of Annex IV/1 – Other conditions of cooperation of the Contract on buying and selling no. 0038/2009, concluded on February 9, 2009, between Idea d.o.o. Beograd, as buyer, and Swisslion Takovo d.o.o. Beograd Group, as seller, concluded in the name of/on behalf of seller’s subsidiary companies: Swisslion d.o.o.

Beograd, Takovo a.d. Gornji Milanovac company and Takovo Agrar d.o.o. Gornji Milanovac – in bankruptcy, the said Annex concluded between Idea d.o.o. Beograd as buyer and Takovo a.d. Gornji Milanovac company as seller, on February 9, 2009, instituted prohibited restrictive agreement whereby determining the selling price in further sales, thus considerably distorting competition on retail food market from the confectionary products program of Swisslion d.o.o. Beograd company, in non-specialized predominantly food merchandize and other consumer goods' stores, such are self-service shops, outlet stores, supermarket and hypermarket stores (activity 52110 – Retail sale in non-specialized stores with food, tobacco and beverages) on the territory of the Republic of Serbia.

II IS DETERMINED that provision under Item 7 of Annex IV/2 – Other conditions of cooperation of the Contract on buying and selling no. 0038/2009, concluded on February 9, 2009, between Idea d.o.o. Beograd, as buyer, and Swisslion Takovo d.o.o. Beograd Group, as seller, concluded in the name of/on behalf of seller's subsidiary companies: Swisslion d.o.o. Beograd, Takovo a.d. Gornji Milanovac company and Takovo Agrar d.o.o. Gornji Milanovac – in bankruptcy, the said Annex concluded between Idea d.o.o. Beograd as buyer and Takovo a.d. Gornji Milanovac company as seller, on February 9, 2009, instituted prohibited restrictive agreement whereby determining the selling price in further sales, thus considerably distorting competition on retail fruit and vegetables, and baby food processing markets of the Takovo a.d. Gornji Milanovac company, in non-specialized predominantly food merchandize and other consumer goods' stores, such are self-service shops, outlet stores, supermarket and hypermarket stores (activity 52110 – Retail sale in non-specialized stores with food, tobacco and beverages) on the territory of the Republic of Serbia.

III IS DETERMINED that prohibited restrictive agreement from Paragraph I and II of enacting terms of this decision is void.

IV IS PROHIBITED to companies from Paragraph 1 of enacting terms of this decision any further acting that might distort competition, by explicit or acquiescent contracting of provisions conditioning buyers' commitment to implement minimal, fixed or recommended price, or to in any other manner determine selling price in further sales of products from production program of the companies from Paragraph I of enacting terms of this decision.

V Measure for protection of competition IS NOT established against companies from Paragraph I of enacting terms of this decision relating to executed competition infringement act from Paragraph I of enacting terms of this decision.

7. This decision shall be published in the „Official Gazette of the Republic Serbia“ and on the Interet page of the Commission for Protection of Competition.