

Republic of Serbia

COMMISSION FOR PROTECTION OF COMPETITION

Number: 5/0-02-26/2015-17

Date: December 18, 2016

Belgrade

INFORMATION

on submission of the proposed commitments that the company “Železnice Srbije” is voluntarily willing to undertake in order to eliminate possible competition infringements, including the invitation to all interested parties to submit written remarks, stances and opinions related to proposed commitments

The Commission for Protection of Competition (hereinafter: the Commission), based on the initiative has come to a cognition that the Joint-stock company “Železnice Srbije” from Belgrade, with registered head-office at 6, Nemanjina Street, Belgrade-Savski venac (hereinafter: “Železnice Srbije” company, or party to the proceeding), enabled access and use of rail infrastructure to other business entities interested in carrying out railway transport services, whereby reasonably assumed the existence of competition infringement on the relevant market of rail infrastructure management, where the “Železnice Srbije” company holds a dominant position as a sole operator of this infrastructure on the territory of the Republic of Serbia.

Based on previously mentioned, pursuant to conclusion of the President of the Commission for Protection of Competition no. 5/0-02-855/2013-1 dated December 26, 2013, the proceeding ex officio against the “Železnice Srbije” company is instituted for determining the grounds of an act relating to the abuse of a dominant position pursuant to Article 16 of the Law on Protection of Competition (“Official Gazette of the Republic of Serbia”, no. 51/09 and 95/2013 – hereinafter: the Law).

Pursuant to Article 58(1) of the Law, is determined that the Commission may enact a conclusion on the adjournment of investigation of competition infringement and determine measures referred to in Article 59 of this Law, if the party, based on the content of the conclusion on instituting proceeding, that is, facts established in the proceeding, submits a proposal of commitments that is voluntarily willing to undertake in order to eliminate possible competition infringement, containing terms and conditions for taking the measure (hereinafter: the Proposal of commitments), which party to the proceeding performed via the submission dated December 7, 2015.

Pursuant to the same Article of the Law, Paragraph 3 defined that the Commission shall publish

on its website the Information on submission of proposal of the party, containing a brief description of the proposal and essential elements of the case, with invitation to all interested parties to submit written remarks, stances and opinions related to proposed commitments.

In accordance with previously mentioned, the Commission publicizes the Information on submission of the Proposal of commitments, submitted by the “Železnice Srbije” company.

PROPOSAL OF COMMITMENTS THE COMPANY IS WILLING TO UNDERTAKE IN ORDER TO ELIMINATE POSSIBLE COMPETITION INFRINGEMENTS

In order to secure open access and use of public railway infrastructure market in accordance with the current statutory requirements – the Law on Railways (“Official Gazette of the Republic of Serbia”, no. 45/2013 and 91/2015 – hereinafter: the Law on Railways), the following shall be found as necessary:

I MULTI-YEAR INFRASTRUCTURE AGREEMENT

The “Železnice Srbije” company shall be held obliged to following adoption of the 2016 Budget Law, prepare the Operating program for 2016, and to submit the said to the Government of the Republic of Serbia for obtaining approval, and following approval obtaining, to start preparing the program of rail infrastructure maintenance, organization and regulation of rail traffic, and building and reconstruction of rail infrastructure within period of 30 days, and submit the said to the Government of the RS for obtaining approval.

The infrastructure operator and the Government shall initiate activities related to ratification of the Agreement regulating mutual rights and obligations related to financing rail infrastructure management expenses in part representing the difference between actual rail infrastructure management expenses and generated revenues from the charges for rail infrastructure use and service costs, upon meeting previously listed conditions.

II NETWORK STATEMENT

1) Charges for rail infrastructure use

The “Železnice Srbije” company shall be held obliged, following ratification of the Multi-year agreement, to set proposal of the charges for rail infrastructure use within period of 15 days, and submit the said to the Government of the RS for obtaining approval.

2) Model Contract for railway infrastructure use

The “Železnice Srbije” company shall be held obliged, within period of 15 days from enacting the decision on elements of the Agreement, to adopt the Model Contract for railway infrastructure use.

3) *Draft Timetable*

The “Železnice Srbije” company shall be held obliged to prepare the draft timetable of train operation – draft timetable regulating international and national traffic no later than eleven and six months, respectively, prior to commencing implementation of the new timetable.

The “Železnice Srbije” company shall be held obliged, following ratification of the multi-year infrastructure agreement with the Government of the RS, obtaining approval of the Government of the RS to the Methodology for evaluation of criteria for allocation of rail route, determining the charges for rail infrastructure use, and adopting the model contract for railway infrastructure use, to within period of 15 days from the fulfilment of all listed conditions, enact the Network statement and submit the said to the Government of the RS for obtaining approval, and subsequently publish the said.

III AGREEMENT FOR RAIL INFRASTRUCTURE USE

The “Železnice Srbije” company shall be held obliged to within period of 15 days enact the Methodology for evaluation of criteria for allocation of rail route, and submit the decision on the said to the Government of the RS for obtaining approval.

The “Železnice Srbije” company shall be held obliged, following publicizing of the Network Statement, to approach the sales of routes – i.e. enable all carriers who hold a current license and security certificate to access the public rail infrastructure by concluding the Agreement for rail infrastructure use.

IV TIMETABLE

The “Železnice Srbije” company shall be held obliged to enact the Timetable pursuant to Rules on timetable capacity allocation (“Official Gazette of the RS”, no. 140/14) prior to coming to power – on December 13, 2015.

During the “Železnice Srbije” company restructuring process, a new company – the Joint-stock company for Public Railway Infrastructure Management “Infrastruktura Železnice Srbije“, Belgrade, took over part of the activities of party to the proceeding, among other, securing the access to infrastructure that is the subject of the proceeding before the Commission, whereby the said company is fully independent from “Železnice Srbije” company. As the sole company that can implement commitments proposed by the party to the proceeding, the Joint-stock company for Public Railway Infrastructure Management “Infrastruktura Železnice Srbije“, Belgrade, submitted the information on taking over all commitments proposed by the party to the proceeding.

All interested parties are hereby called to submit in written form remarks, stances and opinions

related to proposed commitments that the “Železnice Srbije” company is voluntarily willing to undertake in order to eliminate possible competition infringements, within 20 days from the date of publication of this information, to the following address: Commission for Protection of Competition, 25/IV, Savska Street, 11000 Belgrade.

The submission by which the remarks, stances and opinions are submitted, should contain a remark stating its reference to the publicized proposed commitments submitted by the “Železnice Srbije” company.

The remarks, stances and opinions may also be submitted, within the said deadline, via e-mail to the following address: biljana.makevic@kzk.gov.rs

COUNCIL OF THE COMMISSION FOR PROTECTION OF COMPETITION