



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

25/IV Savska St., Belgrade
Number: 4/0-02-366/2018-1
Date: April 24, 2018

Pursuant to Article 35(2) of the Law on Protection of Competition (Official Gazette of the RS 51/2009 and 95/2013), President of the Commission for Protection of Competition enacts the following

CONCLUSION

- I PROCEEDINGS IS INSTITUTED** *ex officio* for the investigation of infringement of competition against undertakings:
- **PREDUZEĆE ZA PROIZVODNJU, PROMET I USLUGE KEPROM DOO, BEOGRAD (ZEMUN)**, company registration number 06746284, with registered seat in Belgrade-Zemun, 18 Glavna St., whose representative is Boban Kežić, and
 - **SAMOSTALNA TRGOVINSKO KOMISIONA RADNJA-BEBI BUTIK RODA AVRAMOVIĆ RADE PREDUZETNIK BEOGRAD (ZVEZDARA)**, company registration number 56511792, with registered seat in Belgrade-Zvezdara, 3 Rableova St.,
- in order to determine the existence of restrictive agreements, within the meaning of Article 10 of the Law on Protection of Competition.
- II** All persons in possession of data, documents or other relevant information which could contribute to the accurate fact-finding in this proceedings are called upon to submit said to the Commission for Protection of Competition to the address 25 Savska St., Belgrade.
- III** This conclusion shall be published in the Official Gazette of the Republic of Serbia and on the website of the Commission for Protection of Competition.

Rationale

On March 12, 2018, the Commission for Protection of Competition (hereinafter referred to as “the Commission”) has addressed requests to undertakings operating on the baby equipment retail market for submission of copies of agreements pursuant to which they acquire baby equipment for resale purposes.

In response to the Commission’s request, undertaking STKR Bebi butik Roda Avramović Rade PR Beograd (hereinafter referred to as “STKR Roda”) has submitted, inter alia, the General agreement on purchase and sale, concluded in the capacity of buyer with company Preduzeće za proizvodnju, promet i usluge Keprom doo, Beograd (Zemun) (hereinafter referred to as “Keprom”), registered in Keprom under number 165 of January 11, 2010.

After reviewing the General agreement set forth, it is established that Article 2(2) therein stipulates that the Buyer commits not to establish the resale price of products below the invoice price of the Seller.

After a detailed analysis of submitted agreements, the Commission has reasonably assumed that Keprom and STKR Roda, as a seller and buyer respectively, have established the sale prices and other conditions of trade on the baby equipment retail market. The reasonable assumption is based on the fact that the agreement concerned contains provisions that establish the resale prices. The provision set forth restricts the buyer to autonomously and independently enact business decisions concerning the price policy.

The provision of Article 10(1) of the Law on Protection of Competition (Official Gazette of the RS 51/2009 and 95/2013, hereinafter referred to as “the Law”) stipulates the following: “Restrictive agreements are agreements between undertakings which as their purpose or effect have a significant restriction, distortion or prevention of competition in the territory of the Republic of Serbia.”

The provision of Article 10(3) of the Law stipulates that restrictive agreements are prohibited and void, except in cases of exemption from the prohibition pursuant to this Law.

Having regard that undertakings, including STKR Roda as well, are requested to submit agreements pursuant to which are actively supplied with products for resale purposes, the Commission has reasonably assumed that the above-mentioned General agreement concluded between Keprom and STKR Roda is still in effect, and that related contract provision establishing the resale prices as its purpose or effect has or may have a significant restriction, distortion or prevention of competition.

Given the assessment of the fulfilment of conditions from Article 35(1) of the Law for instituting *ex officio* proceedings for the investigation of competition infringement, pursuant to the provision of Article 35(2) of the Law, it is decided as in Paragraphs I and II of the enacting terms herein.

Pursuant to the provision of Article 40(1) of the Law, where is stipulated that decisions on instituting *ex officio* proceedings are published in the Official Gazette of the Republic of Serbia and on the website of the Commission, it is decided as in Paragraph III of the enacting terms herein.

Instruction on legal remedy:

This conclusion is not susceptible to special appeal, but is permitted to institute an administrative dispute by appealing to the Administrative Court against the final decision of the Commission.

PRESIDENT OF THE COMMISSION

Dr. Miloje Obradović