



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

25/IV Savska St., Belgrade
Number: 4/0-02-786/2018-1
Date: November 8, 2018

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

CONCLUSION

- I PROCEEDINGS SHALL BE INSTITUTED** *ex officio* for the investigation of infringement of competition against the following undertakings:
- **Mobil 3D Cinema doo**, company number 20966157, with registered seat in Belgrade, Čukarica, 83a Požeška St., whose representative is Nebojša Četković, and
 - **Kulturni centar Indija**, company number 08867364, with registered seat in Indija, 40a Vojvode Stepe St., 22320 Indija,
- in order to determine the existence of a restrictive agreement, 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 the proceedings are called upon to submit said to the Commission for Protection of Competition to the following address: 25/IV 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 August 6, 2018, the Commission for Protection of Competition (hereinafter, the Commission) has received an initiative entered under number 5/0-03-590/2018-1, submitted electronically by Rade Ćosić on behalf of an undertaking, company House of Cinemašina (hereinafter: Cinemašina). In the initiative and subsequent letters submitted to the Commission is stated that Cinemašina owns a DCP projector CHRISTIE 2210, sound system and a screen used for movie screenings in community centers throughout Serbia (the so-called, mobile cinema system). It is pointed out that they are unable to screen movies in individual community centers because the competing company, Mobil 3D Cinema doo Beograd (hereinafter, Mobil 3D Cinema) has established itself as a “monopolist” on the market. It is further stated that Mobil 3D Cinema, prior to Cinemašina’s market entry, was the only mobile cinema company and that it

has pushed out the only competitor (company Trimark) out of the market by resorting to “aggressive commercial policy of unfair competition”, now also implemented on Cinemašina. The party has particularly described a pressure exerted via community center Kulturni centar Inđija (hereinafter, KC Inđija), explaining that they are not permitted to schedule movie screenings due to arbitrary changes to the community center’s operating conditions, established to the detriment of Cinemašina.

The party has also submitted an email, dated May 23, 2017, sent by company Mobil 3D Cinema to KC Inđija, providing a list of movies to be screened by Mobil 3D Cinema in this community center, whereas it was indicated that in the cities with whom Mobil 3D Cinema cooperates, other companies may show only those movies that are not promoted by Mobil 3D Cinema or movies which they have already shown and do not plan to screen again, and that is important to follow these principles which will ensure that everything is working without problems as in Trimark case. The email was forwarded by KC Inđija to Cinemašina, informing the company of the list of movies that cannot be screened in KC Inđija.

The Commission has assessed that the market share of each party on the cinematographic screening market via mobile cinema systems in the territory of the City of Inđija could exceed 25 per cent.

The provision of Article 10(1) of the Law on Protection of Competition (Official Gazette of the RS 51/2009 and 95/2013 – hereinafter, 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.

The Regulation on agreements between undertakings operating at the different level of production or distribution chain exempted from prohibition (Official Gazette of the RS 11/2010 – hereinafter, the Regulation) lays down categories of agreements of sale, purchase or distribution of goods and services, and more closely prescribes conditions under which said agreements may be exempted from prohibition.

Article 4(1) of the Regulation stipulates that vertical agreements are exempted from the prohibition provided that the market share of each party to the agreement on the relevant market does not exceed 25 per cent.

The Commission was not notified of the said restrictive agreement with a request for related exemption, that is, the agreement concerned it is not exempt pursuant to the Law.

Having regard to the aforementioned, the Commission has established reasonable grounds to believe the existence of the infringement of competition that as its purpose or effect has or may have a significant restriction, distortion, or prevention of competition. The prohibition of competitive bidding, established via e-communication channels, may represent an act of the infringement of competition from Article 10 of the Law, which will be investigated by the Commission in full and complete compliance with Article 41 of the Law.

In view of 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 enacting terms herein.

Pursuant to the provision of Article 40(1) of the Law stipulating that conclusions on instituting *ex officio* proceedings are to be 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 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