



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

25 Savska St, 4th Floor, Belgrade

Number: 5/0-01-488/2020-1

Date: July 3, 2020

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 adopts the following

CONCLUSION

I PROCEEDINGS SHALL BE INITIATED *ex-officio* to undertake investigations of alleged infringements of competition law against company:

AKCIONARSKO DRUŠTVO AUTOPREVOZ – JANJUŠEVIĆ PRIBOJ, company number 07155824, with registered office at bb Jarmovac, Priboj,

in order to establish the existence of an act of abuse of dominance within the meaning of Article 16 of the Law on Protection of Competition.

II All persons in possession of data, documents or other relevant information that could contribute to the accurate fact-finding in the proceedings are invited to submit said evidence to the Commission for Protection of Competition at 25 Savska St., Belgrade.

III This conclusion shall be published in the Official Gazette of the Republic Serbia and on the website of the Commission for Protection of Competition.

Exposition

On January 24, 2020, the Commission for Protection of Competition (hereinafter, the Commission) has received an antitrust complaint to investigate the infringement of competition referred therein, brought against company Akcionarsko društvo Autoprevoz – Janjušević Priboj, company number 07155824, with registered office at bb Jarmovac, Priboj, represented by Vinko Janjušević, CEO (hereinafter, company Autoprevoz – Janjušević).

According to the complaint, company Autoprevoz – Janjušević manages the operations of the only bus terminal in the City of Kragujevac and abuses its dominant position referred to in Article 16 of the Law on Protection of Competition (Official Gazette of the RS 51/2009 and 95/2013 – hereinafter, the Law) in the relevant market for the provision of bus station services at the bus terminal in the City of Kragujevac by charging for the provision of bus station services - bus dispatch services in the amount of 800.00 dinars, as well as by not charging at one point for the provision of bus dispatch and parking services at the bus terminal in the City of Kragujevac for the buses owned by company Autoprevoz – Janjušević, as a bus carrier.

To assess the merits of the claims presented in the antitrust complaint, the Commission approached company Autoprevoz – Janjušević with the Request for information No. 5/0-01-186/2020-2 of February 10, 2020. In the submission of February 25, 2020, as an action on the Commission's request, company Autoprevoz – Janjušević presented a statement claiming that the company manages the bus terminal in the City of Kragujevac as a lessee, as of November 10, 2015. On the same day, the company adopted the Pricelist of bus station services provided at the bus terminal in the City of Kragujevac, which remained unchanged since its adoption and which, as such, is currently in force. Company Autoprevoz – Janjušević further presented that the bus dispatch services are based on the costs attributable to the bus terminal lease, as well as other costs such as those relating to the provision of electricity and water supply services, waste disposal, security services, wage bill and other duties like property taxes. To document the alleged, the company provided the following:

- receipt No. (97) 77-00007 of February 1, 2016, of the bus terminal lease payment;
- receipt No. 000017 of March 7, 2017, of the bus terminal lease payment;
- receipt No. P-000007 of March 7, 2017, of the January 2017 electricity bill payment;
- receipt No. 555-2017/1596 of November 30, 2017, of the November 2017 water resources use and discharge payment;
- receipt No. 101009824907 of July 31, 2019, of the July 2019 refuse collection payment;
- debit note No. P-000077 of December 10, 2019, of the 2017 property taxes;
- receipt No. 8-JANJ/19 of August 1, 2019, of the July 2019 security consulting services payment re: Bus terminal in the City of Kragujevac;
- statement of the PPP-PD tax returns for employees (author's note: PPP-PD form - individual tax returns for taxes and social security contributions), not showing a number and date, printed on February 19, 2020.

In the annex to the submission, the company also provided a copy of the current Pricelist of bus station services provided at the bus terminal in the City of Kragujevac, a receipt of the December 2017 bus station dispatch charges for the services provided at the bus terminal in the City of Kragujevac for the buses owned by company Autoprevoz – Janjušević, as well as copies of tickets for the Kragujevac-Užice route issued by company Autoprevoz – Janjušević and another bus carrier.

Based on the analysis of the available documentation, i.e. upon inspecting the Pricelist provided, it is established that company Autoprevoz – Janjušević charges 800.00 dinars for the bus station dispatch services, which could not be justified by cost-benefit considerations on the basis of the information at the Commission's disposal. Namely, the provided copies of receipts relating to the costs listed as criteria that are taken into account when determining the costs of the bus station dispatch services, could not be accepted by the Commission as valid evidence since the presented receipts not only relate to different months but also different years, thus making it impossible to establish the amount of the costs concerned on the basis thereof. Also, based on comparison with information obtained by the Commission in other proceedings with identical or similar subject matter of the proceedings, the bus station dispatch service charges in the amount referred herein may represent a form of excessive pricing in relation to the services provided. Furthermore, it is established that company Autoprevoz – Janjušević also charges for the provision of bus station dispatch services in various amounts, depending on whether the carrier is providing intercity or international bus services, as well as whether such international carriers are offering connections to neighboring or other countries.

The comments and documentation presented by company Autoprevoz – Janjušević have provided insufficient evidence for the Commission to arrive at a different conclusion; therefore, the Commission has found reasonable grounds to believe the existence of infringements of competition which as their purpose or effect have or may have a significant restriction, distortion or prevention of competition. The charging of bus station dispatch services in an unfairly high amount leads to the exploitation of service users, while the different pricing for identical bus services in respect of various bus carriers

causes discrimination, thus the Commission has found reasonable grounds to believe that said actions may represent acts of infringements of competition referred to in Article 16 of the Law, whose existence will be established by the Commission in full and complete compliance with Article 41 of the Law.

Given the assessment of the fulfillment of conditions from Article 35(1) of the Law for instituting proceedings *ex officio* to investigate the infringement of competition, 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 providing for the conclusions on instituting proceedings *ex officio* 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 the enacting terms herein.

Instruction on legal remedy:

Special appeal against this Decision is not allowed, but is permitted to file legal proceedings against the final decision of the Commission in this administrative matter.

PRESIDENT OF THE COMMISSION

Nebojša Perić