



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

25/IV Savska Street, Belgrade

Number: 4/0-01-318/2023-1

Date: January 19, 2023

Pursuant to Article 35, paragraph 2 of the Law on Protection of Competition (“Official Gazette of the Republic of Serbia” no. 51/2009 and 95/2013), the President of the Commission for Protection of Competition hereby issues the following

### **CONCLUSION**

- I THE ex officio PROCEDURE IS HEREBY INITIATED** for investigating the infringement of competition against the market participant **TRADE AND TRADE BROKERAGE COMPANY VAILLANT DOO BEOGRAD**, registration number 20247487, with its registered office at: 57 Radnička Street, Belgrade (Čukarica), represented by Mario Opačak and Zoran Biserčić, directors, in order to determine existence of violation of competition from Article 10 of the Law on Protection of Competition.
- II** All persons having data, documents or other relevant information that may be significant for determining the factual situation in this procedure, are hereby invited to submit them at the address of the Commission for Protection of Competition, 25 Savska Street, Belgrade.
- III** This conclusion shall be published in the “Official Gazette of the Republic of Serbia” and webpage of the Commission for Protection of Competition.

### **R a t i o n a l e**

the Commission for the Protection of Competition (hereinafter referred to as: the Commission) reviewed the prices of products of the brand “Vaillant” in the Republic of Serbia, where prices of products of aforementioned brand were compared with retailers that were, on the webpage of the **TRADE AND TRADE BROKERAGE COMPANY VAILLANT DOO BEOGRAD**, registration number 20247487, with registered seat at: 57 Radnička Street, Belgrade (Čukarica) (hereinafter referred to as: Vaillant) stated as authorized distributors of products of this brand<sup>1</sup>.

During the review of retail prices of gas boilers of the brand “Vaillant”, the Commission determined that their prices, in the observed period, were almost identical with stated retailers (authorized distributors), and that the price difference amounted to less than 1.00 dinars. For example, the price of non-condensation gas boiler turbo TEC pro VUW 242/5-3 M-H with all three observed retailers amounted from 121,705.00 dinars to 121,706.00 dinars, the price of the wall gas combined boiler of the series “PLUS” turbo TEC plus VUW 282/5-5-H amounted from 175,316.00 dinars to

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<sup>1</sup> GAS LIDER DOO VRČIN, TRADE AND SERVICES COMPANY DOMING DOO, ŠIMANOVCI and ENERGY NET DOO NOVI SAD

175,317.00 dinars, while the price of gas circular boiler of the series “PLUS” turbo TEC plus VU 242/5-5 H amounted from 151,405.00 dinars to 151,406.00 dinars.

By way of subsequent review of the webpage of Vaillant, the Commission determined that it includes the pricelist for products of the „Vaillant “brand, which is named “January 2023.” Through the review of this pricelist, the Commission determined that it includes wholesale and retail prices of products of this brand. The Commission compared retail prices from the price list of Vaillant with the retail prices displayed on the websites of certain authorized distributors and determined that they are identical, both among all of the observed retailers, and against the prices from the price list available on the website of Vaillant.

For example, the retail price of combined gas boiler turbo TEC PLUS VUW SOE 322/5-5 H 32 KW was, in the pricelist of the company Vaillant as well as webpages of observed retailers, 204,552.00 dinars, the price of gas boiler for central heating turbo TEC PLUS VU SOE 242/5-5 H 24 KW was 157,464.00 dinars, and the price of combined gas boiler atmoTEC PRO VUW SOE 240/5-3 M-H 24 KW amounted to 109,572.00 dinars.

The Commission compared the prices of other products of the brand “Vaillant”, and also found that the prices with observed retailers were completely identical. For example, retail price of the digital room thermostat with eBUS communication (model calorMATIC 350) amounted to 19,236.00 dinars (16,030.00 dinars with retailers presenting prices without VAT), the price of electric room heater 2000W (model eloMENT VER 200/5) amounted to 23,568.00 dinars (19,640.00 dinars with retailers showing prices without VAT) and the price of electric boiler for central heating (model ELOBLOCK VE21 / 14 SEE) amounted to 115,728.00 dinars (96,440.00 dinars with retailers presenting prices without VAT).

Since the webpage of Vaillant Group <sup>2</sup>states that one of the brands of this group is “Protherm”, the Commission reviewed prices of the products of brand “Protherm” in the Republic of Serbia.

Through the review of the webpage of the brand “Protherm” <sup>3</sup>it has been determined that the observed retailers marked as authorized distributors of the products of the brand “Vaillant” are stipulated as retailers of products of brand “Protherm”<sup>4</sup>. Namely, through the review of the stated webpage, it has been determined that it contains the tab “Where to buy” including names and addresses of retailers that sell products of the “Protherm” brand. Also, through the review of the stated webpage, it has been determined that it includes the pricelist of products of “Protherm” brand (hereinafter referred to as: Pricelist), including retail prices of this brand.

By way of review of the webpages of observed companies that are marked as retailers of the brand “Protherm”, the Commission concluded that retail prices of certain gas boilers of the brand “Protherm” in the Republic of Serbia with all observed companies are similar. Also, by comparing their retail prices with prices stated as retail prices in the Pricelist available on the webpage of the brand “Protherm” the Commission determined that the observed prices are identical.

For example, during the period in which the Commission observed the prices, the price of the gas wall boiler for central heating (combined) 24kW - model Lynx 24 in the pricelist was 72,960.00 dinars, while on the webpages of observed companies marked as retailers of products of brand “Protherm”, also, identical retail price of 72,960.00 dinars was stated. Also, with certain retailers, wholesale price was actually shown of the stated boiler model, that is, the price without VAT, and it amounted to 60,800.00 dinars, but, once we add VAT of 20% to this price, we get the amount of 72,960.00 dinars. Regarding the wall gas boiler for central heating (combined) 28 kW - model

<sup>2</sup> <https://www.vaillant-group.com/en/>

<sup>3</sup> <https://www.protherm.rs/>

<sup>4</sup> GAS LIDER DOO VRČIN, TRADE AND SERVICES COMPANY DOMING DOO, ŠIMANOVCI and ENERGY NET DOO NOVI SAD

Lynx 28, on the webpage of observed retailers of this brand, as well as in the Pricelist, the price of 92,200.00 dinars was presented, that is, 76,000.00 dinars with retailers that show prices without VAT (91,200.00 dinars with VAT included).

After the change of prices on the webpage of the brand "Protherm" for observed gas boilers, the Commission analyzed them again and compared them with prices with stated retailers. Also, it has been determined that the price of the gas wall boiler for central heating (combined) 24 kW - model Lynx 24 amounted to 63,240.00 dinars, and the price of the gas wall boiler for central heating (combined) 28 kW - model Lynx 28 was 79,040.00 dinars. It has been noted from data and information that were publicly available on the webpage of this brand, it cannot be determined whether the price of stated gas boilers is retail or wholesale, that is, whether this price includes VAT or not. However, if 20% VAT is calculated on these prices, we get the amounts of 75,888.00 dinars for model Lynx 24, that is, 94,848.00 dinars for the model Lynx 28. By way of review of webpages of observed companies that were marked as retailers of products of the brand "Protherm", the Commission determined that retail prices of observed gas boilers were 75,888.00 dinars for model Lynx 24, that is 94,848.00 dinars for model Lynx 28, where such prices are calculated by "adding" the VAT amount to the prices from the webpages of the brand "Protherm" for aforementioned boiler types.

Considering all aforementioned, due to the fact that the prices of Vaillant and Protherm brands are similar in retail with observed retailers on the territory of the Republic of Serbia, and at the same time, identical to prices shown in pricelists of products of these brands on their webpages, the Commission presumed, with cause, that they are the result of actions related to competition violation in the form of setting prices in resale. Namely, since the company Vaillant is the distributor of products of brands Vaillant and Protherm, and the retailers of brand Vaillant are at the same time the retailers of brand Protherm, based on the analysis and assessment of collected data, the Commission determined existence of violation of competition in the sense of Article 10 of the Law, that is, that Vaillant is setting resale prices for brands Vaillant and Protherm. Having in mind that webpages of Vaillant and Protherm brand, in sections in which retail facilities are stated where products of these two brands can be bought, there are no retail facilities of Vaillant company, and that there is no online shop on the webpage of the company and brand, it can be concluded that company Vaillant is not present in retail of products of brands "Vaillant" and "Protherm".

Restrictive agreements are, in line with provisions of Article 10 of the Law, those agreements between market participants whose aim or consequence is to significantly limit, distort or prevent competition in the territory of the Republic of Serbia. Article 10, paragraph 2 of the Law sets forth that restrictive agreements can be contracts, certain provisions of the contract, explicit or tacit agreements, agreed practices, as well as decisions on the form of association of market participants, which, in particular, directly or indirectly determine purchase or sale prices or other terms of trade.

Article 35, paragraph 1 of the Law prescribes that the Commission initiates the procedure of investigation of competition violation ex officio, when, based on submitted initiatives, information and other available data, it can be presumed the existence of competition violation. Since, based on all previously stated, it can be presumed that competition violation exists from Article 10 of the Law, decision has been made as stated in the paragraph I of the wording of this Conclusion.

The Commission shall, in the investigation procedure, in line with Article 41 of the Law, undertake all necessary evidentiary actions in order to correctly determine the factual situation, examine the existence of a competition infringement, and make a final decision upon finalization of the procedure.

In line with provisions of Article 35 paragraph 2 of the Law, decision has been made as stated in the paragraph II of the wording of this Conclusion.

In line with Article 40 paragraph 1 of the Law, decision has been made as stated in the paragraph III of the wording of this Conclusion.

**Legal remedy:**

Separate appeal is not allowed against this Conclusion, and it can be disputed in the administrative procedure by filing a suit against the final decision of the Commission in this administrative matter.

**PRESIDENT OF THE COMMISSION**

Nebojša Perić

Deliver to:

- TRADE AND TRADE BROKERAGE  
COMPANY VAILLANT DOO BEOGRAD,  
57 Radnička Street, Belgrade (Čukarica)
- Archive