

BOSNA I HERCEGOVINA
Konkurencijsko vijeće



БОСНА И ХЕРЦЕГОВИНА
Конкуренијски савјет

Bosnia and Herzegovina
Council of Competition

Number: 01-01-50-757-1-I/06
Sarajevo, 22 November 2006

Pursuant to Article 25, paragraph (1), item f) of the Act on Competition («Official Gazette of BiH», No. 48/05), and in connection with Article 3, paragraph (4) of the Public Procurement Law of Bosnia and Herzegovina («Official Gazette of BiH», No. 49/04, 19/05, 52/05, 8/06 and 24/06) on the basis of the report made by the Public Procurement Agency of Bosnia and Herzegovina, received on 27 September 2006, No.: 01-01-50-757-1-I/06, and upon request of the undertaking BH Telecom d.o.o. Sarajevo, the Council of Competition in its 36th session held on 22 November 2006 has adopted an

OPINION

A Relevant market of the telecommunication service does not fulfil the conditions of the market competition in Bosnia and Herzegovina.

Exposition

The Public procurement Agency has submitted a request No.: 01-01-50-757-1-I/06 on 27 September 2006 (additional requests are submitted on 26 October 2006, No. 01-01-50-936-1-I/06 and 3 November 2006, No: 01-01-50-932-1-I/06) asking the Council of Competition to assess whether the competition terms are met in the relevant market of the telecommunication services in Bosnia and Herzegovina, pursuant to Article 3, paragraph (4) of the Public procurement Law of Bosnia and Herzegovina («Official Gazette of BiH», No.: 49/04, 19/05, 52/05, 8/06 and 24/06) (hereinafter: the Law).

It is stated that BH Telecom d.o.o. Sarajevo has addressed its request to the Public procurement Agency of Bosnia and Herzegovina asking for exclusion of the telecommunication services market from application of the Law concerned, that means the institution of the procedure for amendment to that Law, in sense of Article 3, paragraph (4) of the Law.

BH Telecom d.o.o. Sarajevo submitted together with its request the adequate documents as same as a receipt on competitiveness of the telecommunication service market in Bosnia and Herzegovina, issued by the Regulatory Agency for Communication of Bosnia and Herzegovina. The Council of Competition deems this receipt needless (and incomplete in sense of Article 3, paragraph (4) of the Law) as it is pursuant to Article 1, 20 and 21 of the Act on Competition competent to determine rules, measures and procedures of the market competition, to carry out the protection of the market competition and has exclusive competence to determine the presence of the competition in the market of Bosnia and Herzegovina. Therefore, the Council of Competition is competent to determine the presence of the competition in the market of telecommunication services in Bosnia and Herzegovina.

In the course of analysis and considering all data from the submitted documentation, the Council of Competition finds out the presence of the general legal framework in the

telecommunication sector and application of the rules and practice of the market competition in providing a particular telecommunication services.

By the analysis of results arisen by the operational activities of the undertakings in the relevant market of telecommunication services, considering the characteristics of the particular telecommunication services, the possible introduction of the substitute (alternative) services, a price level and price formation of the particular services, actual and potential presence of the competition/operators, and administrative, economic and legal barriers for new competitors /operators to entry it is established that the relevant market of the telecommunication services is not competitive.

Considering all mentioned above, the Council of Competition treats the telecommunication services market in Bosnia and Herzegovina as one market but not as a market of its particular segments; therefore the Council of Competition deems that the telecommunication services market does not meet the terms of the market competition (irrespective of implementation of the market competition rules in its particular sub-segments of the telecommunication services) and gives its opinion as it is stated in the enacted form of this Opinion, pursuant to Article 3, paragraph (4) of the Public Procurement Law.

President

Gordan Raspudic