

BOSNA I HERCEGOVINA
Konkurencijsko vijeće



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Konkurencijski savjet

DECISION
on non-existence of abuse of dominant position
of undertaking Telekomunikacije Republike Srpske a.d. Banja Luka

Sarajevo
October, 2011



Number: 05-26-2-028-76-II/10
Sarajevo, 12th October 2011

Pursuant to Article 42 paragraph (2) and Article 11 paragraph (3), in accordance with Article 11 paragraph (2) of the Competition Act («Official Gazette of BiH», No. 48/05, 76/07 and 80/09), deciding upon a special request for the issuance of the decision filed by undertaking Crumb Group doo Brcko District, Bulevar mira no. 5, TC Sloboprom S, 76100 Brcko District, No. 05-26-2-028-72-II/10 of 4th October 2010 and on special request for the issuance of the decision filed by undertaking Telekomunikacije Republike Srpske a.d. Banja Luka, Kralja Petra Karadorđevića 61-A, Banja Luka number: 05-26-2-028-74-II/10 of 10th October 2011, the Council of Competition at the 19th (nineteen) session held on 12th October 2011, has issued the following

DECISION

1. It is considered that the undertaking Telekomunikacije Republike Srpske a.d. Banja Luka, Kralja Petra Karadorđevića 61-A, Banja Luka does not abuse dominant position within the meaning of Article 10 paragraph (2) of the Competition Act, since the deadline for issuing a decision on determination of abuse of dominant position from Article 41 paragraph (1) item c) of the Competition Act has expired.
2. This Decision is final and shall be published in the "Official Gazette of BiH", official gazettes of Entities and Brcko District of Bosnia and Herzegovina.

Exposition

On 30th November 2010 Council of Competition received a request, number 05-26-2-028-II/10 to institute proceedings (hereinafter: Request) in terms of Article 28 of the Competition Act (hereinafter: the Act) filed by the undertaking Crumb Group d.o.o. Bijeljina, Knez Ivo od Semberije 4, Banja Luka (hereinafter: the Applicant or Crumb group) represented by a lawyer Ognjen S. Avlijaš, Trg Kralja Petra I, Bijeljina, against undertaking Republike Srpske a.d. Banja Luka, Kralja Petra I Karadorđevića No. 93, Banja Luka (hereinafter: Telekomunikacije RS) represented by a lawyer Stevan Dimitrijevic, Gundulićeva 4, Banja Luka for the suspicion of the existence of prohibited agreement pursuant to Article 4 paragraph (1) item d) and abuse of dominant position within the meaning of Article 10 paragraph (2) items a), b) c) d) of the Competition Act. During the proceedings, the Applicant has changed the seat of the company, which is now in the Brcko District at Bulevar mira no 5, and the name of the company is Crumb Group d.o.o. Brcko District, which is determined by examining the Decision on registration No. 096-0-Reg-10-001290 of 21st January 2011.

Council of Competition found that without the initiation of the proceedings it is not possible to determine violations of the Act referred to in the Request, and pursuant to Article 32 paragraph (2) of the Act issued the Conclusion on the initiation of proceedings No. 05-26-2-028-9-II/10 on 2nd March 2011.

Article 41 paragraph (1) item c) of the Act provides that after adoption of the Conclusion on initiation of proceedings the Council of Competition shall render a final decision on determining the abuse of

dominant position within 4 months. In accordance with Article 41 paragraph (2) of the Act, the Council of Competition may extend the deadline for three additional months, which was done in the Conclusion of the extension of the deadline for issuing the final decision No. 05-26-2-028-40-II/10 of 8th June 2011.

Article 11 paragraph (2) of the Act provides that if the Competition Council has not taken a decision within the Article 41 paragraph (1) item c), it is considered that the agreement or conduct of the undertaking is not an abuse of dominant position. At the special request of the undertaking, the Council of Competition in accordance with Article 11 paragraph (3) of the Act shall issue a decision that the agreement or conduct of the undertaking does not abuse a dominant position.

Council of Competition has not issued a final decision within the statutory deadline in Article 41 paragraph (1) item c) and (2) of the Act.

Undertakings Crumb Group doo and Telekomunikacije RS filed specific requests to the Council of Competition for issuing a decision pursuant to Article 11 paragraph (3) of the Act on 4th October 2011 under the number 05-26-2-028-72-II/10, and respectively on 10th October 2011 under the number: 05-26-2-028-74-II/10.

Acting on the request for the issuance of a decision of undertaking Crumb Group d.o.o. and undertaking Telekomunikacije RS, and bearing in mind the above, the Council of Competition stated that the deadline for the final decision within the meaning of Article 41 paragraph (1) item c) of the Act has expired, and in accordance with Article 11 (3) of the Act rendered the decision as to the disposition of this Decision.

Administrative tax

In accordance with Article 2 tariff number 107 paragraph (1) item g) of the Regulation on administrative taxes related to procedural actions before the Council of Competition («Official Gazette of BiH», No. 30/06 i 18/11) the Applicant is obliged to pay administrative tax for this Decision in amount of 1.500,00 KM for the benefit of the Budget of institutions of Bosnia and Herzegovina.

Legal remedies

Appeal against this Decision is not allowed.

Unsatisfied party can initiate administrative procedure before the Court of Bosnia and Herzegovina within 30 days from the day of receipt or publication of this Conclusion.

President

Ibrica Lakišić