

***BOSNA I HERCEGOVINA***  
***Konkurencijsko vijeće***



***БОСНА И ХЕРЦЕГОВИНА***  
***Конкуренијски савјет***

**Decision**

**upon the Claim for Initiation of Proceedings against Mtel a.d. Banja Luka and Financ d.o.o. Banja Luka filed by the undertaking Aero Centar Krila d.o.o. Banja Luka**

***SHORT VERSION***

**Sarajevo,  
June, 2025**



Number: UP-01-26-3-026-46/24  
Sarajevo, June 4th 2025

The Competition Council of Bosnia and Herzegovina, pursuant to Article 42, paragraph (2) of the Law on Competition ("Official Gazette of Bosnia and Herzegovina", No. 48/05, 76/07 and 80/09), and Article 105 of the Law on Administrative Procedure ("Official Gazette of Bosnia and Herzegovina", No. 29/02, 12/04, 88/07, 93/09, 41/13 and 53/16), and upon the Claim received on September 11th 2024 under number: UP-01-26-3-026-1/24, filed by the undertaking Aero Centar Krila d.o.o., Dunavska 1c, 78 000 Banja Luka, represented by the proxy, attorney Darija Mirnić-Majstorović, First Krajiškog Corps 2, 78 000 Banja Luka, against the undertaking Mtel a.d. Banja Luka, Vuka Karadžića 2., 78 000 Banja Luka and Financ d.o.o., Dunavska 1c, 78 000 Banja Luka, both represented by the proxy, attorney Branislav Cvijanović, Svetozar Markovića 5/11, 78 000 Banja Luka and Emina Hot-Ajanović, Jadranska 3., 71 000 Sarajevo, in order to determine the existence of a prohibited agreement under Article 4 and abuse of a dominant position under Article 10 of the Law on Competition, at the 28th (twenty-eighth) session held on June 4th 2025, adopted the following

### **DECISION**

1. The Claim of the undertaking Aero Centar Krila d.o.o., Dunavska 1c, 78 000 Banja Luka, Bosnia and Herzegovina, filed against the undertaking Mtel a.d. Banja Luka, Vuka Karadžića 2., 78 000 Banja Luka and Financ d.o.o., Dunavska 1c, 78 000 Banja Luka, Bosnia and Herzegovina, for the purpose of establishing abuse of dominant position within the meaning of Article 10 of the Law on Competition, is rejected as unfounded.
2. The request of the undertaking Aero Centar Krila d.o.o., Dunavska 1c, 78 000 Banja Luka, Bosnia and Herzegovina, filed against the undertakings Mtel a.d. Banja Luka, Vuka Karadžića 2., 78 000 Banja Luka and Financ d.o.o., Dunavska 1c, 78 000 Banja Luka, Bosnia and Herzegovina, for the purpose of determining the existence of a prohibited agreement within the meaning of Article 4 of the Law on Competition, is rejected as unfounded.
3. The undertaking Aero Centar Krila d.o.o., Dunavska 1c, 78 000 Banja Luka, Bosnia and Herzegovina, is ordered to reimburse the costs of the proceedings of the undertaking Mtel a.d. Banja Luka, Vuka Karadžića 2., 78 000 Banja Luka and Financ d.o.o., Dunavska 1c, 78 000 Banja Luka, Bosnia and Herzegovina in the amount of 2,679.53 KM (in words: two hundred six hundred seventy-nine convertible marks and fifty-three pfennigs) to the authorized representative Branislav Cvijanović and the amount of 720.00 KM (in words:

seven hundred twenty convertible marks) to the authorized representative Emina Hot-Ajanović within 8 days from the date of receipt of this decision.

4. The undertaking Aero Centar Krila d.o.o., Dunavska 1c, 78 000 Banja Luka, Bosnia and Herzegovina is obliged to pay an administrative fee in the total amount of 3,000 KM (in words: three thousand convertible marks) in favour of the Budget of the Institutions of Bosnia and Herzegovina within 8 days from the date of receipt of this Decision.
5. This Decision is final and will be published in the "Official Gazette of Bosnia and Herzegovina", the official gazettes of the entity and Brčko District of Bosnia and Herzegovina.

### **Exposition**

The Competition Council of Bosnia and Herzegovina (hereinafter: the Competition Council) received on September 11 2024, the Claim for Initiation of Proceedings, filed by the undertaking Aero Centar Krila d.o.o., Dunavska 1c, 78 000 Banja Luka (hereinafter: the Claimant or AC Krila d.o.o.), under number: UP-01-26-3-026-1/24, represented by the proxy attorney Darija Mirnić-Majstorović, Prvog krajiškog korpusa 2, 78 000 Banja Luka, in order to determine the existence of a prohibited agreement under Article 4 and abuse of a dominant position under Article 10 of the Law on Competition ("Official Gazette of BiH", No. 48/05, 76/07 and 80/09) by the undertaking Mtel a.d. Banja Luka, Vuka Karadžića 2., 78 000 Banja Luka (hereinafter: Mtel a.d.) and Financ d.o.o., Dunavska 1c, 78 000 Banja Luka (hereinafter: Financ d.o.o.) or (hereinafter for both: Opposing Party).

The Council of Competition addressed the Claimant with a Request for Supplement to the Claim on 14 October 2024, with document number: UP-01-26-3-026-2/24. The Claimant submitted the requested information on 21 October 2024, with document number: UP-01-26-3-026-3/24.

After the Claim in question had been completed, the Competition Council issued a Confirmation of Receipt of a Complete and Proper Claim, number: UP-01-26-3-026-4/24, pursuant to Article 28, paragraph (3) of the Law, on November 7 2024.

The Competition Council assessed that the infringements of the Law, to which the Claimant points, cannot be established without conducting proceedings, and in accordance with Article 32, paragraph (2) of the Law, at its 16th session held on November 7 2024, adopted a Conclusion on the initiation of proceedings, number: UP-01-26-3-026-6/24 (hereinafter: the Conclusion), in order to determine the existence of a prohibited agreement under Article 4 and abuse of a dominant position under Article 10 of the Law on Competition.

..., since this is a proceeding with parties with opposing interests, the Competition Council scheduled an oral hearing, in accordance with Article 39 of the Law on 8 May 2025

(summons delivered to the Claimant by document number: UP-01-26-3-026-25/24, to the Opposing Party by document number: UP-01-26-3-026-26/24 on April 10 2025).

The oral hearing was held at the premises of the Competition Council, of which Minutes No.: UP-01-26-3-026-37/24 were drawn up.

After reviewing the relevant facts and evidence established during the proceedings, the facts presented at the oral hearing, the data and documentation of the relevant institutions, and a conscientious and detailed assessment of each piece of evidence separately and all evidence together, the Competition Council has determined the following:

In the specific case, the undertaking AC Krila d.o.o. states that by unilaterally terminating the contracts concluded between AC Krila d.o.o. and Mtel a.d. on mediation in the sale of Mtel prepaid credits, and on mediation in concluding subscription contracts, the undertaking Mtel a.d. and the undertaking Financ d.o.o. abused the dominant position referred to in Article 10 of the Law, through their actions on the relevant market, and that Mtel a.d. and Financ d.o.o. concluded a prohibited agreement referred to in Article 4 of the Law, thereby restricting competition.

Based on the submitted evidence and the established facts, as well as the arguments presented during the proceedings, by a conscientious and detailed assessment of each piece of evidence separately and all evidence together, the Competition Council considered the above-mentioned case and decided to reject the Claimant's request, because the actions that are charged against the undertakings Mtel a.d. and Financ d.o.o. do not constitute an abuse of dominant position under Article 10 of the Law and do not constitute a prohibited agreement under Article 4 of the Law.

Namely, the following markets have been determined as the relevant product market:

- the market for receiving and making payments for prepaid credit top-ups via terminals based on the technological solution of the mobile payment system for the top-up of prepaid credit by mobile network users (hereinafter: prepaid credits), and
- the market for mediation in the process of concluding subscription contracts for mobile and fixed telephony services, internet access, IPTV services, including related integrated services in the relevant geographical market of Bosnia and Herzegovina (hereinafter: subscription contracts or postpaid contracts).

#### *1.*

Article 9, paragraph (1) and (2) of the Law stipulates that an undertaking has a dominant position on the relevant market of goods or services, if due to its market power it can act to a significant extent independently of real or possible competitors, customers, consumers or suppliers, also taking into account the share of that undertaking on the relevant market, the shares on that market held by its competitors, as well as legal obstacles to the entry of other undertakings into the market. It is assumed that an undertaking has a dominant position on the market of goods or services if it has a share of more than 40% on the relevant market.

Article 10, paragraph (1) stipulates that any abuse of a dominant position by one or more economic operators on the relevant market is prohibited, and Article 10, paragraph (2), point (a) stipulates that abuse of a dominant position specifically refers to:

- a) direct or indirect imposition of unfair purchase and selling prices or other trading conditions that restrict competition,
- b) restriction of production, market or technical development to the detriment of consumers,
- c) application of different conditions for the same or similar type of transactions with other parties, thereby placing them in an unequal and disadvantageous competitive position,
- d) conclusion of agreements that require the other party to accept additional obligations which, by their nature or according to commercial usage, have no connection with the subject matter of such agreement.

The main facts of this procedure were that the Claimant AC Krila d.o.o. had concluded three mediation contracts with the undertaking Mtel a.d., as follows:

- Mediation contract number Mtel a.d. 1-01-1636/221 dated 13.1.2021. (AC Krila d.o.o. number: 010/2021 dated 14.1.2021.) with the corresponding annexes regulating the brokerage process in the process of concluding subscription contracts for m:SAT service, fixed telephony service, internet access service, IPTV service, including integrated service offers,
- Mediation contract number Mtel a.d. 1-01-5749/18 dated 5.2.2018. (AC Krila d.o.o. number: 008/2017 of 1.2.2018.) with the associated annexes regulating the mediation process in receiving and making payments for prepaid credit top-ups via terminals based on the technological solution of the mobile payment system for prepaid credit top-ups by users of the Mtel a.d. mobile network, and
- Mediation Agreement number Mtel a.d. 1-01-1589/21 of 13.1.2021. (AC Krila d.o.o. number: 009/2021 of 14.1.2021.) with the associated annexes regulating the process, i.e. the method and procedure of mediation when concluding subscription contracts for mobile telephony services with new and existing users of all tariff models and postpaid payment methods.

Upon inspection of the above-mentioned contracts, the Competition Council determined that all three contracts contained the following provision:

*"Irrespective of the previous paragraph, each Contracting Party reserves the right to cancel the contract, without the obligation to state the reason for cancellation, by delivering a statement of cancellation to the other Contracting Party, with the fact that the cancellation of the contract occurs after the expiry of the notice period of fifteen (15) days, counting from the day of delivery of the written Declaration of Cancellation to the other Contracting Party."*

On August 1, 2024, the undertaking Mtel a.d. sent the Claimant three statements, as follows:

- Statement on the termination of the Mediation contract No.: 1-01-41707/24 of 1. 8. 2024 (terminating Mediation contract No. Mtel a.d. 1-01-1636/221 of 13.1. 2021. (AC Krila d.o.o. No.: 010/2021 of 14.1. 2021.) with the associated annexes regulating the mediation process in the process of concluding subscription contracts for m:SAT service, fixed telephony service, internet access service, IPTV service, including integrated service offers),
- Statement on the termination of the Mediation Contract No.: 1-01-41704/24 of 1. 8. 2024. (terminating Mediation Agreement No. Mtel a.d. 1-01-5749/18 dated 5.2.2018. (AC Krila d.o.o. number: 008/2017 dated 1.2.2018.) with the associated annexes regulating the mediation process in receiving and making payments for prepaid credit top-ups via terminals based on the technological solution of the mobile payment system for prepaid credit top-ups by users of the Mtel a.d mobile network), and
- Statement on termination of the Mediation contract number: 1-01-41705/24 dated 1.8. 2024. (terminating Mediation contract number Mtel a.d. 1-01-1589/21 dated 13.1.2021. (AC Krila

d.o.o. number: 009/2021 dated 14.1.2021.) with the associated annexes regulating the process, i.e. the method and procedure of mediation when concluding subscription contracts for mobile telephony services with new and existing users of all tariff models and postpaid payment methods).

By submitting the above-mentioned statements to the Claimant, the 15-day notice period began to run, and upon expiration of the period, the Contracts between Mtel a.d. and AC Krila d.o.o. on mediation were terminated, which is indisputable between the parties to the proceedings.

The Competition Council determined that by sending the above-mentioned Statements on the termination of the mediation contracts, and the termination itself, does not constitute a violation of the Law on Competition.

Although the contracts stipulated that unilateral termination of the contract was possible without giving reasons, Mtel a.d. submitted during the proceedings an explanation for the termination of the contract, namely that the undertaking AC Krila d.o.o. exerted pressure on the clients of Financ d.o.o. to terminate the contract with Financ d.o.o. and to enable the mediation in sales to AC Krila d.o.o., which was the reason for the Commission formed by Mtel a.d., to check the situation on the ground, and subsequently to terminate the contract. AC Krila d.o.o. denied the above, which is the subject of an ongoing court case.

Economic entities, whether dominant in the market or all others, are primarily established in accordance with the Law on Companies, and their goal is to both gain profit and achieve their strategic goals, through decisions of management structures.  
Economic entities in the market very often conclude contracts with their partners, or terminate them if there is no business interest for cooperation, which is legitimate and justified.

Since Article 10, paragraph (1) of the Law stipulates that any abuse of a dominant position by one or more undertakings on the relevant market is prohibited, the Competition Council has determined, pursuant to Article 10, paragraph (2), which stipulates the following, that abuse of a dominant position specifically refers to:

a) direct or indirect imposition of unfair purchase and selling prices or other trading conditions that restrict competition.

Under this point, during the proceedings, it was determined that the contracts concluded between the contracting parties Mtel a.d. and AC Krila d.o.o. did not impose any restrictions, but as stated in the file, the parties were satisfied with the terms of the contract and their business cooperation, which excludes any abusive imposition and unfair terms of the contract, which leads to the fact that the Claimant was dissatisfied exclusively with the fact of termination, as stated in the request.

b) limiting production, market or technical development to the detriment of consumers.

During the term of the Agreement, AC Krila d.o.o. acted exclusively as an intermediary in the sale of Mtel a.d. products, either in the sale of prepaid credits or in the sale of subscription contracts (postpaid), AC Krila d.o.o. did not have its own original product (which, for example, in the event of termination of the Contract, would be deprived of the supply of a

certain raw material, which is necessary for the production of that original product or similar), and therefore the fact of termination of the Contract with AC Krila d.o.o. did not limit production, nor the market, nor technical development to the detriment of consumers.

c) applying different conditions for the same or similar type of business with other parties, thereby placing them in an unequal and unfavourable competitive position.

During the proceedings, it was determined that the intermediaries had concluded contracts in accordance with the Regulation on the conditions and rules of mediation for intermediaries and processors of electronic top-ups, i.e. that the Regulation is an act that regulates contractual relations between Mtel a.d. and its partners in a unified manner, and that the adoption of the Regulation is a common way of doing business and acting in the form of "general conditions" of business, and in order to have a uniform approach when concluding contracts, and contrary to the claims of the Claimant that it was a unilateral act - which distorted competition, it actually provides security in actions and ensures equality for all parties.

d) conclusion of agreements that condition the other party to accept additional obligations that, by their nature or according to commercial custom, have no connection with the subject matter of such an agreement.

Also, the subject matter of the proceedings was the termination of the Contract, which AC Krila d.o.o. was satisfied with, and from the assumptions in the Claim there were no allegations of conditioning.

Therefore, by signing the contract, the parties also agreed to the possibility of terminating it, unilaterally with a notice period, and interference in the specific contractual relationship by the Competition Council, which in this case the Claimant requested in the proceedings, would be contrary to the business autonomy of undertakings to independently determine their business policy that they intend to follow on the market, especially when it comes to the method of selling their own products and services, whether through intermediaries, directly or through their own sales channels. Also, in this regard, we point to Article 25 of the Law on Competition, which lists the competencies of the Competition Council.

The undertaking AC Krila d.o.o. stated that the termination of the contract was contrary to good business practices and the Law on Obligations, and on this issue the Competition Council determined that the contract as such provided for the possibility of unilateral termination, therefore, according to the Law on Competition, the termination of the contract is not disputable. The Competition Council determined that the Law on Obligations and the Law on Competition are not in conflict, but in a relation of mutual connection, one with the other.

Regarding the issue of the relevant market and competitors in the relevant market, it was determined during the procedure that a large number of undertakings operate in the relevant prepaid credit market, as shown in Table 1.

Table 1.

<b>Participants in the prepaid top-up mediation market in Bosnia and Herzegovina</b>	<b>Market share estimation (%)</b>
1. Satelit d.o.o. Čitluk and POS d.o.o.	46

Posušje	
2. Financ d.o.o Banja Luka	26
3. AC Krila d.o.o. Banja Luka	9
4. Riva d.o.o. Tuzla	4
5. Bingo d.o.o. Tuzla	5
6. I Novine d.o.o	8
<b>OSTALI</b>	2

Source: file.

Therefore, during the proceedings, it was indisputably established that there are a large number of competitors operating in the relevant market, with a greater or lesser market share, who provide mediation services in the sale of prepaid credits, and not all intermediaries have contracts with all operators offering mobile telephony services on the market of Bosnia and Herzegovina.

Specifically, in this proceeding it was determined that AC Krila d.o.o. has concluded mediation contracts with BH Telecom d.d. Sarajevo, HT Mostar d.d. Mostar, and the sale of Haloo packages.

Financ d.o.o. has concluded mediation contracts with Mtel a.d., Blicnet d.o.o Banja Luka, and Novotel d.o.o. Sarajevo.

It has also been determined that Mtel a.d. in the relevant market for the sale of prepaid credit, in the market of Bosnia and Herzegovina, also sells directly to customers through Mtel a.d. internal channels (postpaid, IPTV, web, applications, branches), which in its total sales of prepaid credit amounts to 13.09% of sales.

It is an indisputable fact that the undertaking Mtel a.d. Banja Luka has significant market power, however, its core business activities are the provision of mobile telephony, fixed telephony, cable television and internet services.

According to data from the Annual Report of Mtel a.d. for 2023, published on the website [www.mtel.ba](http://www.mtel.ba) and data from the document Telecommunications Indicators for 2023 adopted by the RAK and published on the official website of the RAK, [www.rak.ba](http://www.rak.ba), it is evident that in 2023, Mtel a.d. had a 36.8% share of the mobile telephony market in Bosnia and Herzegovina.

The fact is that the market for providing mobile telephony services in Bosnia and Herzegovina is operated by 8 (eight) undertakings, namely: Mtel a.d. Banja Luka, BH Telecom d.d. Sarajevo, HT Mostar d.d. Mostar, Novotel d.o.o. Sarajevo, Logosoft d.o.o. Sarajevo, Haloo d.o.o. Sarajevo and Blicnet d.o.o. Banja Luka, with a greater or lesser share of the market, and that all of them have the corresponding RAK license for providing these services.

Furthermore, the Competition Council in the proceedings also determined with regard to the contract for the sale of postpaid services by Mtel a.d., which was also terminated with AC Krila d.o.o., that in that case there was no infringement of market competition under the Law on Competition.

Specifically, Mtel a.d. concludes the majority of postpaid and subscription contracts in its branches, however, according to the data submitted by Mtel a.d. it has valid contracts for the



mediation in the sale of postpaid services with the following undertakings, as shown in Table 2.

Table 2.

	<b>Intermediary</b>
1.	E Commpany d.o.o. Banja Luka
2.	Financ d.o.o. Banja Luka
3.	Teledirekt d.o.o. Banja Luka
4.	Blicnet d.o.o. Banja Luka
5.	Optinet d.o.o. Banja Luka
6.	Videotel d.o.o. Banja Luka
7.	Il Solutions d.o.o. Tuzla
8.	Inter Plus d.o.o. Banja Luka
9.	Elektron Group d.o.o. Banja Luka
10.	KT Sara d.o.o. Drvar
11.	Grubex RD d.o.o. Gradiška
12.	Logosoft d.o.o. Sarajevo
13.	SD Sistemi d.o.o. Laktaši
14.	ZR European TV Miroslav Blačaković s.p. Rudo
15.	Telesky d.o.o. Gradačac
16.	PTT Inžinjeri d.o.o. Podgorica
17.	Connect s.p. Dragan Zrnić Prijedor

Source: file;

Therefore, the fact is that Mtel a.d. has concluded contracts for the mediation in the sale of subscription contracts with 17 (seventeen) other intermediaries who conclude sales contracts on behalf of Mtel a.d., and the fact of the termination of the contract with AC Krila d.o.o. did not cause any changes in the market to the detriment of consumers.

In relation to the undertaking Financ d.o.o., the Competition Council has determined that Financ d.o.o. was not a party to the Contract that was terminated, and therefore there is no argument that it committed an infringement of the Law on Competition. Namely, by the fact of the termination of the contract between Mtel a.d. and AC Krila d.o.o., the undertaking Mtel a.d. entrusted its sales intermediary business to its affiliated company in 100% ownership of the shares of Mtel a.d.

The fact is that in 2020, Financ d.o.o. took over Mtel a.d. on the market and acquired a 100% stake in it, which had also performed sales mediation activities for Mtel a.d. before the aforementioned transaction. This business transaction was reported to the Competition Council, on which the Council of Competition adopted Conclusion No. UP-06-26-1-028-6/19 on January 23, 2020. With this business transaction, Mtel a.d. expanded its portfolio and became independent in its business in the area of providing prepaid services to its users, i.e. the sale of vouchers, through the affiliated company Financ d.o.o., which is also a legitimate business goal. Since there are numerous entities on the market that are also competitors in this area, in this sense, Mtel a.d. can, in case of need or, for example, lower costs, the inability to set up its own devices for the sale of prepaid vouchers, engage sales intermediaries.

As for the undertaking Financ d.o.o., it was determined that the contract contains the same terms and conditions with Mtel a.d. as AC Krila d.o.o. had before the termination.

During the procedure, it was determined that the undertaking Financ d.o.o. does not have a sales mediation contract with the undertakings BH Telecom d.d. Sarajevo and HT Mostar d.d. Mostar and that these undertakings have contracts for mediation in the sale of prepaid top ups with AC Krila d.o.o.

Thus, it was determined that Financ d.o.o., in addition to selling Mtel a.d., prepaid vouchers also sells Novotel d.o.o Sarajevo and Blicnet d.o.o Banja Luka prepaid vouchers. Financ d.o.o. has also concluded contracts with subcontractors, namely Satelit d.o.o Čitluk and POS d.o.o. Posušje.

Therefore, all the facts established in the proceedings indicate that the market is diversified, competitive, there are several competing entities on the market, there are no barriers on the market that would prevent the development and progress of entities on this market, i.e. there is effective competition on the market, and the end users of Mtel a.d. services have not in any way been put in an unequal position on the market.

The way of doing business and resolving internal business situations, marketing, mediation and other business policies, do not constitute abuses of a dominant position, moreover, if the Competition Council could interfere so much in business, it would be contrary to the principles of free enterprise.

Since, in accordance with Article 36, paragraph (1) of the Law, the burden of proof lies with the party that filed the request for initiation of proceedings, the Competition Council has determined that the Claimant AC Krila d.o.o. in these proceedings has failed to prove the existence of an abuse of dominant position under Article 10 of the Law by Mtel a.d. and Financ d.o.o.

Based on the above, the Competition Council has determined that Mtel a.d. and Financ d.o.o. have not abused the dominant position referred to in Article 10 of the Law, which stipulates that any abuse of the dominant position of one or more undertakings in the relevant market is prohibited, and Article 10, paragraph (2), point 1, stipulates that abuse of a dominant position specifically refers to: a) direct or indirect imposition of unfair purchase and selling prices or other trading conditions that restrict competition, b) restriction of production, market or technical development to the detriment of consumers, c) application of different conditions for the same or similar type of transactions with other parties, thereby placing them in an unequal and disadvantageous competitive position.

*Based on all the above, the Competition Council has decided as in point 1 of the operative part of this Decision.*

## 2.

Since the subject of these proceedings was also the assessment of the existence of a prohibited agreement, and the Claimant requested that the contract between Mtel a.d. and Financ d.o.o. is to be determined as a prohibited agreement or restrictive agreement, or as stated in the request "through the business model of Mtel a.d., coordinated actions with Financ d.o.o and unilateral acts by Mtel a.d."

The content of a prohibited agreement is prescribed by Article 4, paragraph (1), point b) of the Law on Competition and reads as follows:

(1) Agreements, contracts, individual provisions of agreements or contracts, joint actions and tacit agreements of undertakings, as well as decisions and other acts of undertakings that have as their object and effect the prevention, restriction or distortion of competition on the market are prohibited, and which specifically relate to:

- a) direct or indirect determination of purchase and selling prices or any other trading conditions,
- b) limitation and control of production, markets, technical development or investments,
- c) division of markets or sources of supply,
- d) application of different conditions for identical transactions with other economic entities, placing them in an unequal position in relation to competitors,
- e) conclusion of such agreements that condition the other party to accept additional obligations which, by their nature or trade customs, are not related to the subject matter of the agreement.

(2) Agreements prohibited in accordance with paragraph (1) of this Article are null and void.

....

In this specific case, the undertaking AC Krila d.o.o. states that there is a prohibited agreement under Article 4, paragraph 1 of the Law on Competition, which was created by concluding an agreement on mediation in the sale of prepaid and postpaid mobile telephony services between the undertakings Financ d.o.o. and Mtel a.d.

The contract between Mtel a.d. and Financ d.o.o. is a business contract by which the parties regulate their business relations, and which is common in the business world. The contract does not contain any prohibited clauses that could pose a threat to competition in the market, and therefore the fact that Mtel a.d. and Financ d.o.o. are related companies, and that Financ d.o.o. is 100% owned by Mtel a.d. and between related companies within the same group, and that they cannot essentially constitute acts of a prohibited agreement under Article 4 of the Law.

The Competition Council has determined that the Claimant's allegations regarding the existence of a prohibited agreement are unfounded.

Since, in accordance with Article 36, paragraph (1) of the Law, the burden of proof lies with the party that filed the request for initiation of proceedings, the Competition Council has determined that the Claimant AC Krila d.o.o. in these proceedings failed to prove the existence of a prohibited agreement by Mtel a.d. and Financ d.o.o. under Article 4 of the Law.

*Accordingly, the Competition Council has decided as in point 2 of the operative part of this Decision.*

## **Legal Remedy**

No appeal is allowed against this Decision.

A dissatisfied party may initiate an Administrative Dispute before the Court of Bosnia and Herzegovina within 30 days from the date of receipt or publication of this Decision.

**President**

**Ivo Jerkić**

**Deliver to:**

- AC Krila d.o.o, through the proxy,
- Mtel a.d. i Financ d.o.o., through the proxy,
- File.