



COMMISSION FOR THE PROTECTION OF COMPETITION (C.P.C)

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COMMISSION FOR THE PROTECTION OF COMPETITION DECISION
Relating to a proceeding under sections 4 and/or 6 of Law 207/89
(Case No.: 11.17.15/2004)

Decision dated: 16/12/2004

Before: Christodoulos Tselepos- Chairman
Costis Efstathiou- Member
Andreas Demetriou-Member
Elias Theodorou-Member
Leontios Pericleous-Member

Having regard the Protection of Competition Law 207/89 as amended,

Having regarded the complaint filed by Yeomilo Trading Ltd against Cyprus Potatoes Trade Association,

The Commission for the Protection of Competition (hereinafter «C.P.C») in its meeting 16/12/2004 unanimously decided as follows:

1. The Law Firm Eleni Vrachimi & Co, on behalf of Yeomilo Trading Ltd (hereinafter «Yeomilo»), filed a complaint on 26 April 2004, pursuant to section 28 of the Commission for the Protection of competition (hereinafter «Law»), against the Cyprus Potatoes Trades Association (hereinafter «Association»), for the infringement of section 6 of the Law and thus, abusing its dominant position in the market in the field of commerce of potatoes.
2. The C.P.C. in its 627th meeting dated 1st June 2004, pursuant to section 22 of the Law, instructed the Service of the C.P.C. to conduct an investigation on the basis of the complaint filed by Yeomilo.
3. The C.P.C., in its 64th meeting dated 5/10/04, having taken into consideration the investigative report prepared by the Service, all the information and documents collected by the Service during its investigation in the premises of the Association, the information provided by the parties, and all the other documents and information included in the case file, unanimously decided that *prima facie* there is:

An infringement of section 6(1),(2) (d) of the Law on behalf of the Association, by reserving the right to re-examine the issue of not taking potatoes from the producers that do not deliver their whole crop to the Association, which had as a result or effect or a likely effect

the making of contracts conditional upon the acceptance by the other parties of additional obligations which by their nature or according to commercial usage, have no connection with the subject-matter of the contracts.

4. For this purpose the C.P.C., on the basis of section 14(1) of the Law 207/89, instructed the Secretary of the C.P.C. to issue and notify a statement of objection to the Association, inviting it to attend the meeting dated 1st November 2004, personally, either with a lawyer or by an authorised lawyer to set their views and objections.
5. At the 651st meeting dated 1st November 2004 attended the lawyers of the Association Mr Loizos Papacharalambous accompanied by the representatives of the Association and the lawyer of Yemilo Trading Ltd, Mr. Louis Vrachimis. At this first meeting, the CPC set the procedure to be followed for the oral hearing of the complaint, where all the parties to the case had a right to participate and express the views and position.
6. At the C.P.C.'s meeting dated 23.11.2004 all the parties attended represented by their lawyers. The lawyer of the complaint, Mr A. Papacharalambous, admitted that his clients issued an announcement that is in violation of section 6(1),(2)(d) of Law 207/89. Mr A.Papacharalambous continued by stating reasons for the mitigation of the penalty and he *Inter alia*, noted:
 - (a) The activities of the Association up to the liberalisation of the market, pursuant to the relevant legislation, aimed at supporting and promoting the interest of the producers and by being a public organisation it did not aim in deriving interest for itself.
 - (b) The threat included in the announcement was never enforce, something which was also confirmed by the complainant lawyer.
 - (c) The said announced was in relation to the spring crop, the duration of which did not exceed the three months.
 - (d) The Association is ready to comply with all the rules of Competition Law.
 - (e) The Association did not gain any benefit from the issuing of the above announcement.
7. The C.P.C. in its meeting dated 16/12/2004, having taken into consideration all the information arising from the investigative report of the Service, as well as from the views and positions of the interested parties for the purpose of imposing a fine and pursuant to section 22 of the Law unanimously decided:
 - (a) Taking into consideration the fact that up to the liberalization of the market the Association was an organization that supported and promoted the rights of the potato producers, without gaining any benefit for itself, the fact that the infringement was limited to a small period of time, the fact that the threat was never enforced and especially the fact that the Association issued a second announcement dated 23/11/2004, by which it brought to an end the infringement, the C.P.C. decided to impose a fine of CY 20.000 pounds.
 - (b) For the purpose of eliminating any uncertainties as to the status of the announcement under investigation, the Association must be communicated its

announcement dated 23/11/2004 in the same way it communicated the announcement under investigation. In case where the announcement 23/11/2004 is not communicated to the producers in the same way as the announcement under investigation, a fine of CY1000 pounds will be imposed for every day of delay of communication.

Christodoulos Tselepos
Chairman of the Commission
For the Protection of Competition