

Decision no: 22/2014

File no: 11.17.009.21

## THE PROTECTION OF COMPETITION LAW 2008 AND 2014

### Complaint filed by Andreas Alexandrou Accessories Ltd against the Department of Postal Services

Commission for the Protection of Competition:

Mrs. Loukia Christodoulou	Chairperson
Mrs. Eleni Karaoli	Member
Mr. Andreas Karides	Member
Mr. Charis Pastellis	Member
Mr. Christos Tsingis	Member

Date of decision: 24 April 2014

### SUMMARY OF THE DECISION

The subject of the complaint, submitted on 13/07/2009, was the alleged abuse of dominant position by the Cyprus Post through predatory pricing and cross subsidization regarding the services of unaddressed mail, in violation of the Section 6(1)(a) of the Protection of Competition Laws 2008-2014 (hereafter “the Law”). Specifically, the complaint states that the delivery of unaddressed mail was not treated as a separate service, since the mailmen distribute leaflets simultaneously with the regular addressed mail resulting in cross subsidization. Additionally, the complainant alleged that the Cyprus Post is approaching customers and gives them offers that are impossible for the complainant to compete.

Andreas Alexandrou Accessories Ltd operates in the distribution of unaddressed mail items as duly authorised by the Office of the Commissioner of Electronic Communications and Postal Regulation (OCECPR). The company at first stated that it offered its services in all free areas of Cyprus but later stated that its services covered the town of Limassol, the town of Pafos and the surrounding villages of Pafos.

The DPS – Cyprus Post is responsible for the organisation, operation and offer of postal services in Cyprus. The DPS is the public postal operator in Cyprus and is duly authorised to carry out services within the universal postal services as well as services not included in its universal services obligations, such as services of distribution of unaddressed mail and rental services for post office boxes.

The Commission, on the basis of the evidence gathered during the investigation, unanimously concluded as follows:

1. The Cyprus Post did not hold a dominant position in the provision of services of unaddressed mail. However, it holds a monopolist power in the field of postal services.
2. Based on the analysis of the independent auditors -provided by the Cyprus Post- the average revenue per unit exceeded both the average variable cost and average total cost per unit.
3. Based on the analysis of the Commission, when comparing the average income to the average total cost and the average variable cost and having considered that the discount reflected economies of scale, it appeared that the average revenue per unit exceeded both the average variable cost and the average total cost per unit.
4. Based on the analysis of the Commission when comparing the prices to the average total cost and the average variable cost, it appeared that there were cases where the prices did not exceed the total cost but exceeded the variable cost per unit.
5. Based on the analysis of the Commission when comparing the prices to the average total cost and average variable cost and having considered that the

discount reflected economies of scale, it appeared that there were cases where the prices did not exceed the total cost but exceeded the variable cost per unit.

The Commission, based on the evidence before it and on a number of economic analyses, concluded that some of the prices charged by the DPS for unaddressed mail were below average total cost. Furthermore, the Commission concluded that the evidence before it did not prove intention on the part of the DPS, bearing in mind a number of factors including the prices set and the offers made by other competitors in the market. Also, the Commission took into account the DPS's arguments in relation to the way it operated in both the universal services market and the unaddressed mail market, as well as its position in the market before and after it lowered its prices in relation to the distribution of unaddressed mail items.

Further, the Commission concluded that there was no evidence proving that the DPS approached the customers of Andreas Alexandrou Accessories Ltd and offered them better prices.

On the basis of the evidence before it, the Commission reached the conclusion that the DPS's pricing policy in 2009 did not violate section 6(1)(a) of the Law and did not lead to foreclosure of the market or exclusion of equally efficient competitors. The Commission before reached its final conclusion, it communicated the preliminary finding to the complainant that did not submit any comments or views within the fixed time period.

The Commission unanimously decided that the evidence before it did not prove predatory pricing and / or quantity discounts in violation of section 6(1)(a) of the Law.

Loukia Christodoulou  
Chairperson  
Commission for the Protection of Competition