



ΚΥΠΡΙΑΚΗ ΔΗΜΟΚΡΑΤΙΑ



ΕΠΙΤΡΟΠΗ ΠΡΟΣΤΑΣΙΑΣ
ΤΟΥ ΑΝΤΑΓΩΝΙΣΜΟΥ

Decision no: 62/2013

File no: 11.17.013.04

**THE PROTECTION OF COMPETITION LAW 2008
(Law no. 13(I)/2008)**

**Complaint and Interim Measures filed by BACENCO Ltd against ORCHESTRA-
PREMAMAN® Belgium S.A.**

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: 10 October 2013

SUMMARY DECISION

The case concerned the complaint and interim measures filed by BACENCO Ltd (“BACENCO”) against ORCHESTRA-PREMAMAN® Belgium S.A. (“ORCHESTRA-PREMAMAN”), for an alleged infringement of the Protection of Competition Law 13(I)/2008 (“Law”). In particular, the complaint referred to the early termination of the sub-franchise agreement between BACENCO and ORCHESTRA-PREMAMAN and refusal to supply.

BACENCO was an ORCHESTRA-PREMAMAN label shop (kids-baby fashion, maternity and accessories shop) within the shopping mall of Limassol, known as “MY MALL”. BACENCO operated as a sub-franchisee and on the basis of an oral

agreement with Virginia Letkaouskaite Koutroupi who was the Master Franchiser of the ORCHESTRA-PREMAMAN label products in Cyprus.

ORCHESTRA-PREMAMAN is a Belgian company that specializes in baby and children's clothing, maternity and accessories for children and expectant moms, like toys, nursing bottles, items for the bathroom and bedroom, etc. ORCHESTRA-PREMAMAN has franchise agreements for the sale of its products worldwide.

In its decision, the Commission for the Protection of Competition ("Commission") having taking into account all the evidence before it, defined as the relevant product market in this case, the branded baby and children's clothing, maternity and accessories for the child and the expectant mom. Regarding the relevant geographic market, the Commission decided that this extends throughout the territory of the Republic of Cyprus.

The Commission also determined that for the provision of Section 6 (2) of the Law the following three parameters must concur, cumulatively:

- (a) the existence of a relation of economic dependence of a company by another company from which it obtains a certain type of product or service,
- (b) the absence of equivalent alternative, and
- (c) the existence of abuse of this dependence.

In its decision, the Commission concluded that BACENCO was economically depended on the ORCHESTRA-PREMAMAN business, since it was clear that the activities of BACENCO were tailored exclusively to the needs of marketing products of ORCHESTRA-PREMAMAN.

The Commission furthered examined whether there was an absence of equivalent alternative for BACENCO and after thorough examination concluded that BACENCO actually had other alternatives to turn to and continue its operation.

Although this cumulative condition was not met, he Commission further examine whether there the acts and omission of ORCHESTRA-PREMAMAN could be considered as abusive in the light of section 6(2) of the Law. More specifically, the Commission examined whether any of the following occurred: (a) arbitrary trading conditions on behalf of ORCHESTRA-PREMAMAN, (b) any type of discrimination by

ORCHESTRA-PREMAMAN against the complainant, or (c) sudden or unreasonable interruption of the long-term trade relations that had developed between the parties.

Having examined all the facts and evidence before it, the Commission concluded that none of the above mentioned occurred and the termination of the Master Franchise Agreement, that in turn ended any relationship that BACENCO had with ORCHESTRA-PREMAMAN was reasonable.

Thus, the Commission, at its meeting convened on 10 October 2013, after having assessed all the evidence of the administrative file, unanimously concluded that the acts and / or omissions of ORCHESTRA-PREMAMAN did not constitute an abuse of economic dependence, in violation of Section 6 (2) of the Law and rejected BACENCO complaint.

Loukia Christodoulou
Chairperson of the
Commission for the Protection of Competition