[BG] Public service broadcaster BNT's invitation to tender for audience data research deemed lawful

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In a decision of 20 May 2014 (Решение № ЗОП-01-10/20.05.2014), the Competition Commission rejected a complaint by Mediaresearch Bulgaria EAD ("Mediaresearch"), which is part of the Nielsen Group, concerning the public invitation to tender issued by the BNT director-general for the supply of information on BNT's audience share and the use of radio and print media.

Two rival companies essentially dominate market research in the Bulgarian media sector: the complainant, Mediaresearch, and GfK Audience Research Bulgaria ("GARB").

Whereas one of the two largest commercial TV companies (Nova TV) and the public service broadcaster BNT have, until now, entrusted Mediaresearch with the task of determining their audience share, the other main private TV company (bTV) has used GARB. All market participants see the fact that there are two different "currencies" in the television market, providing very different and barely comparable data, as highly problematic.

The Competition Commission's decision was hotly anticipated because of its market relevance. Indeed, by rejecting Mediaresearch's complaint, it is now clear that BNT, which is legally obliged to use public tenders to acquire services, can only entrust GARB with this particular contract. The reason for this is that GARB is currently the only company in Bulgaria capable of supplying both the required audience data and the usage data for radio and print media, which was also included in the invitation to tender.

The complainant, Mediaresearch, essentially argued that the terms of the tendering procedure were discriminatory, since they required not only audience share data, but also other usage data, including, for example, data for the print media market, which it was unable to supply.

Responding to Mediaresearch's complaint, BNT claimed that it needed this data because, on the one hand, it had launched a magazine in 2014 and, on the other, it was involved in joint projects with radio providers.

The Commission ruled that, in principle, it was within BNT's discretion to decide which services should be included in an invitation to tender. Analysis of the current market and legal situation had shown that BNT's explanation of the

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conditions of the tendering process was reasonable. The Commission rejected the complaint as unfounded on the grounds that the invitation to tender was neither discriminatory nor inadmissible.

РЕШЕНИЕ на Комисията за защита на конкуренцията № 898 от 10.07.2014 г.

http://reg.cpc.bg/Dossier.aspx?DossID=300046130

Competition Commission decision no. 898 of 10 July 2014

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