

?????????? ????????

?????? ??? ?????????? (?????? ????)

??? 20?? ?????????? 2022 (\*)

«????????????? ?????????? – ????? ?????? ????? ?????????????? ?????? (???) – ??????  
2006/112/?? – ????? 2, ?????????? 1, ?????????? ?? – ????? ?????????? – ??????  
????????????? ??? ????? – ?????????????? ??? ?????????? ??? ?????????? ?????????? –  
????????????? ??? ????? ?????????? ????? ?????????? ????? – ??? ?????????? ???  
????????????? ? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??? ????? ?????? ??? ?????? ???  
????? ??? ????? ?????????? – ?????????? – ?????????? ??? ?????????? ???  
????????????? ??? ?????»

???? ?????? C90/20,

? ? ?????????? ?????? ?????????????? ?????????? ?????? ??? ?????? 267 ????, ???  
?????? ?? Højesteret (?????? ??????????, ????) ?? ?????? ??? 7?? ?????????? 2020, ?  
????? ??????? ??? ?????????? ??? 24 ?????????? 2020, ??? ?????? ??? ???

**Apcoa Parking Danmark A/S**

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**Skatteministeriet,**

? ? ?????????? (?????? ????),

????????? ??? ??? A. Arabadjiev, ?????? ??? ?????? ???????, ?????????????? ???  
????????? ???????, I. Ziemele, T. von Danwitz, P. G. Xuereb (???????) ??? A. Kumin,  
???????,

?????? ??????????: J. Richard de la Tour

?????????: ?. Calot Escobar

?????? ??? ?????? ??? ?????? ????????????,

?????????? ??? ?????? ??? ?????????????? ??? ????????:

- ? Apcoa Parking Danmark A/S, ?????????????? ??? ??? J. Steen Hansen, advokat,
- ? ?????? ???????, ?????? ?????????????? ??? ??? J. Nymann-Lindgren ?????? ???  
??? ??? M. S. Wolff ??? V. P. Jørgensen, ??? ?????? ??? ??? M. S. Wolff ??? V. P.  
Jørgensen, ??????????? ??? ??? B. Søes Petersen, advokat,
- ? ????????, ?????????????? ??? ??? J. Quaney ??? ??? A. Joyce,
- ? ????????, ?????????????? ??? ??? J. Jokubauskait? ??? ??? U. Nielsen,

????? ?????? ??? ?????? ??????????? ??? ???????? ??? ?????? ??? ?????? ?? ???????????  
??? 3?? ??????? 2021,

?????? ??? ???????

???????

1 ? ?????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 2, ?????????? 1,  
????????? ?, ??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????  
?? ???? ?????? ?????? ??? ?????????????? ?????? (?? 2006, L 347, ?. 1, ??? ????: ??????  
????? ???).

2 ? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? Apcoa Parking  
Danmark A/S (??? ????: Apcoa) ??? ??? Skatteministeriet (????????? ??????????, ???), ??  
????????????? ??? ?????? ??? ?????????????? ?????? (???) ??? ?????? ?????????? ???  
????????????? ? ?? ??? ?????? ?? ?????????? ?? ????????, ?? ?????? ??? ??????, ??? ??????  
????? ?????? ??? ?????? ?????????? ?????? ?????????? ?????? ?????????? ??? ? ??? ??????????????.

?? ?????? ???????

?? ?????? ??? ???????

3 ?? ??? 2, ?????????? 1, ??????? ?, ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? «?? ?????? ?????????, ??? ?????????????????? ?? ?????????? ???  
??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
??? ?????? »..

4 ?? ??? 9, ?????????? 1, ??? ?????? ?????? ??? ?????? ?? ???:

«?????? ?? “????????? ???” ?????????? ???, ??? ?????? ?????????? ??? ??  
????????? ???, ?????????? ?????????? ???, ?????????? ???, ??? ?????? ???  
??? ?? ?????????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???.

?? “????????? ?????????? ???” ?????????? ??? ?????????????? ??? ??????????, ???  
????????? ? ??? ?????????? ???, ?????????????? ???, ??? ?????????????? ??? ??  
????????? ???, ??? ?????????? ???, ??? ?????????? ???, ??? ?????? ???, ??? ?????????? ???  
????????? ???, ??? ?????????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???.  
????????? ? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???.

?? ?????? ???????

? ????

5 ?? ??? 4, ?????????? 1, ??? lov nr. 375 om merværdiafgift (Momsloven) (????? ???  
???, ??? 18?? ??? 1994 (*Lovtidende* 1994 A, ?. 1727), ??? ?????? ??? ??  
????????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ??? (?? ????: ?????? ???),  
?????? ?? ???:

«?? ??? ?? ???? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???  
????? [??]. ?? “????????? ???” ?????? ? ?????????? ??? ?????? ??? ?????? ???  
????????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???.

6      ??? ? ? ?????? 13, ?????????? 1, ?????? 8, ??? ?????? ??????:

«????????????? ??? ??? [??] ?? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? :

[...]

8)    ? ??????????, ? ?????? ?????? ??? ?????????? ?????????, ?????? ??? ? ?????? ??????, ??????, ??????, ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? . ? ?????????? ??? ?????? ??? ??????, [...] ?? ?????? ?????? ??????????????, ?????????? ???? ?????????? ??????, ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????????? .»

7      ?? ?????? 27, ?????????? 1, ??? ? ???? ?????? ?????????? ?? ????:

«?? ?????? ??? ?????????? ??? ?????? ??? ???? ?????? ?????????, ? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????, ?????????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ???? ?????? ??? ???? ?????? ??? 80 % ??? ?????????? ??? ??????.»

? ?????? ??? ?????? ??????????

8      ?? ?????? ?????????? ?????????? ??? ? færdselsloven (????????? ?????? ??????????????), ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? 2014, ?? ??? 122quater ??? ?????? ?????? ?????? ?? ????:

«[?] ? ?????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ??????, ?? ?????? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? (??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??????).»

? ?????? ??? ?????? ?????? ??? ?????? ?? ?????????? ??????

9      ? ?????? ?????????? ??? Apcoa, ?????????? ?????????? ?????????? ?????????? ??????????, ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

10     ??? ?????? ??? ?????????? ???, ? Apcoa ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

11     ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? «[?] ??? [?????????]? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? «[?] ?????? ??? ?????? ??? ?????? ?????? 510 [????????? ??????] (DKK)» (????????? 70 ???), ? «510 DKK ??????». ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ? Apcoa ??? ? ?????? ?????? ???, ??? ? ? 2008 ??? 2009.

12     ??? ?????????? ??? ? Apcoa ?????? ?????????? ?????????? ??????, ??? ??? ?????? ??? ?????? ??? ?????? 9, ??? 1, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ???.

????? ??? ???? ?? ?????????????? ??? ???? ??? ???? ??????????, ??????? ?? ??? ???? ?????? ???  
?????? ????. ????????, ? Apcoa ??????? ??? ???? ?????? ?? ?????????? ??? ???? ??  
????????????? ??? ???? ??????.

13 ??? 25 ?????????? 2011, ? Apcoa ?????? ??? SKAT (?????????? ???, ????) ??????  
????????? ??? ???? ??? ???? ?????????? ??? ???? ?????? ??? ???? ?????? ??? ???? ???  
1?? ?????????? 2008 ??? 31 ?????????? 2009, ?? ??? ??? ?????? ?????????? ?? 25 089  
292 DKK (?????? 3 370 000 ???).

14 ?? ??????? ??? 12?? ?????????? 2012, ? ?????????? ??? ?????? ?????????? ??? ???? ???,  
?? ??? ?????????? ???, ??????? ??? ?????????? ?????? ?????????? ?? ??????  
????????????? ??? ???? ?????? 5 ??? 8 ??? ?????? ??????????, ??? ???? ??? ?????? ???  
????????? ??? ???? ??? ?????? ??????.

15 ??? ?? ???? ?? ???? ?????????? ???, ? ??? ???? ?????????? ??? ???? ??  
Landsskatteretten (?????? ?????????? ???????, ???), ? Apcoa ?????? ?????????? ??????  
?? Retten i Kolding (?????????? Kolding, ???). ?? ?????? ??? 23?? ?????????? 2017,  
?? ?????????? ??? ?????????? ??? ???????, ??????????, ???' ??????, ??? ???? ???  
??? ?????? ? Apcoa, ?? ??? ?????? ?????????? ?? «????????? ??? ??????????» ??  
????????????? ?? ?????????? ?? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ???  
????????????? ??? ?????????? ??????????????, ?????????????? ??? ?????????? ???  
????????????? ??? ?????????? ??????.

16 ? Apcoa ?????? ??? ???? ??? ?????????? ??? ???? ?????? ??? Vestre Landsret  
(????????? ?????? ?????????? ???). ?? ?????? ??? 10?? ?????????? 2018, ?? ??  
???? ?????????? ?????????? ??? ??????, ?? ?? ?????? ???, ?? ?????????? ???, ?????????? ???  
????? ?????? ??? ?????? ?????????? ??? ??????? ??? ??? ?????????? ??? ?????? ??????????  
????????? ??? ?????? ?????????? ??? ??????. ???????, ?? ?? ??? ??? ?????? ??? ?????? ??  
????????? ??? ?????? ?????? ??????????, ??? ??? ?????? ??? ?????? 4, ?????????? 1, ??? ???  
???? ???.

17 ??? ?? ???? ?????? ??? Vestre Landsret (????????? ?????? ??????????) ??????  
????????? ?????? ??? Højesteret (????????? ??????????), ??? ??? ??????  
??????????, ?? ?????? ??? ?????? ? Apcoa ??????????, ???' ??????, ??? ???? ???  
?????? ?? ??? ?????? ??? ??????, ?? ?????????? ?????????? ??? ??? ?????? ??? ??????  
????? ??? ?????? ?????????? ??? ???? ?????????????, ??? ?????? ?????????? ??? ???  
????????? ??? ?????????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ???  
????????? ??? ?????? ??????????. ?? ??? ???, ??? ??? ???, ???, ???, ???  
??????????????, ??? ?? ??? ?????????????? ?????????? ??? ??? ??? ???  
????????????? ?????????? ??????????, ???, ???????, ???????, ??? ?? ??? ?????? ???,  
????? ??? ?????? ??? ?????? ??? ??????, ??? ?????? ?? ?????????? ??? ?????????? ???  
????? ?????????? ??? ?????? 2, ?????????? 1, ?????????? ??, ??? ?????? ??? ???, ??  
????????? ?? ?? ??? 4, ?????????? 1, ??? ?????? ??? ???.

18 ?? ?????????? ?????????? ???, ?????? ???? ?????? ?????? ?????? ??????  
?? ??? ?????????? ?? ?????????? ??? ?? ?????? ?????? ?????????? ??????????, ??????????  
????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?? ?????? ?????? ??????. ?? ?? ???  
????????? ?????????? ??? ?? ?? ??? ?????? ?????? ?????????? ?????????? ??????  
?? ?????? ?????????? ??? Apcoa, ?????????? ??? ?? ??? ??? ?????????? ??? ???  
????????? ??????????????, ??? ?????????? ??? ?? ?????????? ??? 2009, ?? 34 % ??  
????? ?????? ???.

19 ?? ?????? ?????????? ?????????????, ???' ????, ??? ???? ?????? ??????

????????????? ?????????? ?????? ?????? ?? ?????? ?? ?????? ?????????????? ?????? ??? ?? ????  
?????? ??? ?????????? ? Apcoa ?? ?????????? ?? ???????, ??? ??? ??????, ??? ??????  
???? ?????? ??? ?????? ?????????? ??? ?????? ??????????????. ????????, ?? ??????  
????????? ????????????, ??????, ??? ??? ?????????????? ??? ? ?????????? ???  
????????? ?????? ??? ??? ???, ???????, ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ??? ??? ?????? ?????????? ??? Apcoa ??? ??? ?????????? ???  
????? ??? ?????? ??????????.

20 ?????? ??????????, ?? ?????? ?????????? ?????????? ??? ?????????? ?????????????? ?????  
????? ?????? ? Apcoa ?????????? ??? ?????? ?????? ?????????? ??????????, ????:

«1. ?????? ?????? ?????? ?????????? ??? ?????????? ??? ??????????.

2. ?????? ?????????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ??????.

3. ?????? ?????? ??? ?????? ??? ?????????? ??????????, ??? ??????????, ?? ?????????? ???  
????? ??? ??? ?????????? ???.

? ? ?????????? 1 ??? 3 ?????? ?????? ??? ?????????? ??????.

4. ?????? ?????? ?????? ?????????? ??????????, ??? ??????????, ?? ??? ??????????  
????????? ?????? ?????? ??? ?????? ?????? ??? ?? ?????? ?????????? ?????? ??????  
?????????.

5. ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???????????????. ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

6. ?????? ??? ?????? ??? ?????????? ??? ?????? ??????????. ? ?????? ??? ??????  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

7. ???????????. ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ???, ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ??????.

8. ?????????? ??? ?????? ??? ?????? ????. ? ?????? ??? ?????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ??? ?? ??? ?????? ??? ?????? ??? ?? ??? ?????? ???  
????????? ??? ?????? ??? ??????.

9. ?????? ????

10. ?????? ?????????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ??????.

11. ?????????? ??? ?????? ??? ?????? ????. ??? ?????? ??? ?????? ??? ? ?????? ??? ??????  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???, ?? ?????? ??? ??????  
??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

12. ?????????? ??? ?????? ??? ?????? ????. ??? ?????? ??? ?????? ??? ? ?????? ???  
????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

?????????????? ?????? ?????????? ??? ?????? ?????????? ?????????????? ?? ?????????? ?? ????????

???? ??????????? 9 ??? 12 ?????????? ?????? ??? ? ?????????? ?????? ?????? ?????? ???  
????????????? ??????? ???????, ??? ?????? ?? ?????????? ?????? ?????? ?????????? ??? ??  
????????? ?? ?????? ?????? ?????????? ??? ??????.

13. ?????? ??????????. ?????????? ?????? ?????? ?????????? ?????????? ?????? ??? ??  
????????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????????? ??? ??  
????????? ?? ??? ??? ??? ?????? ?????????? ?????????? ?? ?????? 13  
?????????, ??? ???????, ??? ? ?????? ?????? ?????????? ?????? ??? ?????????? ???  
????? ?????? ?????? ??? ?????? ??? ?? ?????????? ?????? ?????? ?????? ?????? ???, ??  
????? ?? ?????????? ?????? ??????».

21 ??? ???????, ?? ?????? ?????????? ?????????? ?? ?????? ?????????? ???  
????????? ??? ?????????? ?????? ?? ??? ?????????? ??? ?????? ?????? ??????????  
???? ???, ?????, ??? ?????????? ??? ?????? «????????? ?????????? ?????????? ???  
?????» ??? ?????????? «????? ???» ? ?????? ???????, ?????? ?????????? ??????????,  
??? «????? ???» ?????? ??? ?????????? ?????????? ??? ??? ?????????? ???  
????????? ???, ???????, ??? ?????????? ?? ?????????? ?? ?????????? ??? ???  
«????????? ?????????? ??? ??? ?????????? ??????». ?????????? ??, ??????????,  
???? ?????????? ??? 18?? ?????? 2007, Société thermale d'Eugénie-les-Bains (C?277/05,  
EU:C:2007:440), ??? ??? 22?? ?????????? 2018, MEO – Serviços de Comunicações e Multimédia  
(C?295/17, EU:C:2018:942), ?????????????? ???, ??? ?????? ??? ?????? ???, ? Apcoa  
????????? ??? ?????? ?? ??? ?????? ?????, ??? ?? ?????? ?????? ?????? ?????? ???  
????????? ??? ??????.

22 ???? , ?? ?????? ?????????? ?????????? ??? ?? ?????? ?????? ?????????? ?????? ???  
?? ???? ??? ?????????? ?????? ?????????? ?????????? ?????????? ???????, ??? ? Apcoa, ???  
???? ?????? ?????????? ?????????? ?????????? ?????? ??? . ?? ?????????? ?????? ??????????  
??????, ?????????? , ??? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? 12?? ???????  
1996, ?? ??? ?????? ?????????? ?? ??? ?? ???, ??? ?????? ???, ??? ?????? ???, ??  
????? ?????????? ?? «????????? ??? ??????». ??? ??? ?????? ??? ?????? ?????? ???  
????? ?????? «????????? ???» ??? ?????????? ??? ?????? ?????? ?????????? ?????? ??  
????? ?? ?????????? ?? ?????????? ??? ??? ?????? ?????? ?????? ???, ?? ?? ??????, ??  
????????? ??? ???, ??? ?? ?????? ??? ?? ??? ?????? ??? ?????? ?????? ?????????? ???  
????????? ?? ?????????? ?? ?? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ???, ??? ?? ??  
????? «????????? ???» ?????? ?? ?????? ?? ?????????? ??? ?????? ?????? ??????.

23 ???????, ?? ??????? ?? ?????? ?????? ??? ? ?????????? ??? ?????? ?????? ?? ??????  
?? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??  
????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??  
????? ??? ???, ??? ?????? ?????? ?????? ??? Apcoa ??? ??? ?? ??? ?????? «??????  
?????», ??? ??? ?????? ??? ?????? ??? 3?? ?????? 1994, Tolsma (C?16/93,  
EU:C:1994:80, ?????? 13 ?? 14). ?????????? , ???????, ?? ?????????? ?????????? ??  
????? ?? ?????? ?? ?? ??? ?????? ??? ?????? ?????? ?????? ?? ?????? ?? ?????? ??  
????? ?????????? ?????? ???, ?????? ?? ?????? ?? ?????? ?????? ?????? ?? ??  
????? ???, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?? ??  
????????? ??? ?????? ?????? ?????? ??? ?????? , ??? ? ?????????? ?????? ?????? ???  
????????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? , ??? ?????? ?????? ?????? ???

24 ??? ??? ??????? ???, ?? Højesteret (?????? ??????) ?????????? ??  
????????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????????? ?? ?????? ???

????????????? ??????:

«???? ?? ??? 2, ?????????? 1, ??????? ??, ??? ?????? [???? ???] ??? ?????? ??? ?? ???  
??????? ??? ?????????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????  
????????? ?????????? ??? ?????????? ?????? ???, ?? ?? ??????, ? ?????? ???  
????????? ???;»

??? ??? ?????????????? ??????????

25 ?? ?? ?????????????? ???????, ?? ?????? ?????????????? ??????, ???' ??????, ??  
????????????? ?? ?? ??? 2, ?????????? 1, ??????? ??, ??? ?????? ??? ?????? ???  
????? ??? ?? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????? ??? ??????  
????????????? ?????????? ?????????? ???????, ?? ?????????? ?? ???????, ?? ?????? ???  
??????, ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?? ?????????? ?? ??????????  
??? ?????? ?????????? ??? ?????????????? ?? ?????????? ??????, ??? ?? ?????? ???  
????????? ???, ? ?????? ?????????? ?? ?????? ???.

26 ?????????????? ???????, ??? ?? ??? 2, ?????????? 1, ?????????? ??, ??  
?????? ???, ?? ?????? ?????? ?? ?????? ?????????? ??? ??, ??? ?????? ???  
????????? ?? ?????? ?????????? ??? ?????????????? ?? ?????????? ?????? ??? ??????  
???? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

27 ? ?????? ?????????? ?????????????? «?? ?????? ?????», ??? ?? ?????? ???  
????????? ???, ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????? ???  
????????? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ?????????? ???, ??  
????? ??? ?????????? ? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????  
????????????? ??? ?????? ??? ?????????? ??? ??????. ?????? ?????? ??? ?????????? ???  
????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????????? (??????  
?? 16?? ?????????? 2021, Balgarska natsionalna televizia, C?21/20, EU:C:2021:743, ???  
31 ??? ?? ?????????????? ??????????).

28 ?? ??????????, ?????????????? ??? ? ?????????? ?? ?????????????? ??? ??????????????  
????? ??? ?????????? ??? ?????????????? ? Apcoa ?????????? ?????? ?????? ?????? ???  
????????? ???, ?? ?????????? ??? ?????????? ??? ?????????????? ??? ?????? ?????? ???  
????????? ???, ??? ?? ?????? ??? ?????????????? ?? ?????? ??????????.

29 ??????, ??? ?? ?????????? ??? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ?????????? ???,  
??? ?????? ??? ?? ??? ?????? ???, ?? ?????????????? ??? ?????? ?????????? ???  
????????? ??? ?????? ??? ?????? ?????????????? ???, ?????????? ???, ? ?????? ??? ?????? ???  
????????? ???, ?????? ??? ?????? ?????????????? ???, ?????????? ???, ? ?????? ??? ?????? ???  
Apcoa ??? ?????? ??? ?????? ?????????? ??? ? ?????????? ??? ?? ?????????? ???, ?????? ??? ??  
???? ??????????, ??????????, ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ???, ??? ??  
????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???, ??? ?????? ??????????  
???? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???, ??? ?????? ??????????.

30 ??????, ??? ?????? ???, ??? ??????, ??? ?????, ??? ?????, ??? ?????????? ?? ??????????  
????????? ?????????????? ???, ??? ?????? ??? ?????? ??? ?????????? ??? ??????????  
??? ??? 27 ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????  
????. ???????, ? ?????? ??? ?????? ??? ?????????? ???, ???, ??? ?????? ???, ??? ?? ??? ??????  
???? ?????????? ??? ?????? ?????? ?????????? ?????????? ???, ?????? ??? ?????????? ??? ??

31 ??? ?????, ??? ?????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?

????????? ??? ?????????? ?????? ?? ??????? ???? ?????????? ?????????????? ??? ??? ???? ???????  
??? ?????????? ????, ???? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????????????? ??? ???? 27  
??? ?????????? ??????????, ??????????????, ???? ?????????? ??? ???? ?????? ??????????  
??? ?????? 51 ??? ?????????? ???, ???? ??? ?????? ??? ?????????? ??? ?????????????? ??? ??????????  
????????? ??? ?????????????? ???? ???? ?????????? ??? ?????? ??? ???? ??? ?????? ??? ??????  
????????? ??? ???? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????.

32    ????, ?? ??????? ???? ??? ???? ?????? ?????????? ?? ?????????? ?? ???? ?????????? ??  
????????? ??? ???? ?????????? ?? ?????? ??? Apcoa ?????????? ??????????,  
?????????????????, ???? ?????? ?????????? ??????????, ???? ??? ???? ?????? ?????????? ??????????  
?????????, ?????????????? ???? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????????? ?? ????  
?????????, ???? ??? ???? ??? ???? ?????? ?? ??? ?????? ?????? ?? ??? ???? ??? ??????????  
????? ??? ???? ??????????, ?????????????? ??? ?????????? ?????? ?????????? ?????? ??????????  
????????? ??? ?????? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ?? ????  
????????? ??? ?????? ??? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??????, ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????  
????? ??????????.

33    ?? ??? ?????? ?????????? ??? ?????? ?? ?????????? ?????? ?????? ??? ???? ?????? ??  
?????? ?? ??? ?????????? ?????????? ??? ???, ???????, ?? ??? ???? ?????? ?????????? ??  
????????? ?? ?????????? ??? ?????? ??? ?????????? ?????? ??? ???? ?????? ?????????? ??  
????????? ??? Apcoa, ???? ?????????? ?? ?????????? ??? ?????? ?????? ??? ???? ??? ???? ??? ???  
????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????.

34    ????, ?? ??? ???? ?? ???? ?????? ?????? ?????????? ?????? ?????????? ?????? ?????? ???  
?????? ?? ?????????? ?? ??? ?????????? ??? ?????? ?????? ? Apcoa. ???? ?????????? ??  
????????? ?????? ??? ?????? 61 ??? ?????? ???, ?? ??? ???? ?????? ???'  
????????? ??? ???? ?? ?????????? ?????? ?????????????? ??? ?????? ?????????? ?? ????  
????????? ?? ?????????? ???? ?????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??  
????????? ?????? ??? Apcoa ??? ?????? ???? ?????? ?????????????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

35    ? ?????? ??? ?????????????? ??? ??? ?????????????? ??? ?????? ?????? ? Apcoa  
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
?????????, ?? ??? ?????, ???' ?????, ? ?????? ?????????? ??? ?????? ??? ???? ??? ?????? ???  
????? ?????? ?????? ?????? . ???????, ??? ???? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ?????????? ?????? ???, ??? ???? ?????????? ??? 2008 ?? 2009, ?? ?????? ???  
????????? ? Apcoa ??? ???? ?????? ?????????? ??? 35 % ?????? ??? ??????  
????????? ???, ??? ? 10,4 ?????????? ??? 2008 ?? 11 ?????????? ??? 2009.

36    ????, ?? ??? ?????????? ??? ???? ?????? ?????????? ??? ?????? ?????????? ?, ? Apcoa  
?????????, ???' ?????, ???, ??, ??? ???? ???? ?????? ??? ?????? ??? ?????? ??? ???? ??? ????  
????????? ??? ?????? ?????? ??? ?????? ?????, ?????? ??? ?????????? ??? ?????? ??? ???? ???,  
????? ?????? ?????? ?????? ??? ?????? ?????, ?????????? ???' ?????? ???, ?? ??????  
????? ?????? ?????? ?????? ??? ?????? ??? ???? ???? ???? ???? ????.

37    ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ????  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ? Apcoa ??? ???? ??? ????  
?? ?????? ??? ?????? ??? ?????? ??? 27 ??? ?????? ?????? ??????.

38    ???????, ?? ?????????? ??? ?????? ?????? ?????? ??? ???? ?????????? ??? ???? ????.

????????????????? ??? ??????? ??????, ??? ??? ?????????? ?????????????? ?? ?????? ???  
????????? ??????????. ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ???  
????????????? ??? ?????? ??? ?????? ?? ???????????, ? ?????????? ??? ?????? ???  
????????? ?????????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ??? (????. ?????? ??? 22? ?????? 2018, MEO – Serviços de Comunicações  
e Multimédia, C?295/17, EU:C:2018:942, ??? 43 ??? ?????????????? ??????????).

39 ? Apcoa ??? ? ?????????? ?????????? ?????????? ?????????? ??? ?? ??? ????  
????????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?? ?????????? ?? ??????????  
????????? ??? ?????? ?????????????? ?????? ?????? ??? ?????????? ??? ?? ?????????? ??  
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ??? ?????? ??? 18? ?????? 2007, Société thermale d'Eugénie-les-Bains  
(C?277/05, EU:C:2007:440, ?????? 21 ??? 35), ?????????? ??? ? ?????? ?????? ?????? ??????  
?? ?????? ??? Apcoa ??? ?????????? ??? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???  
??????.

40 ?????? ?????????????? ???, ??????, ??? ??? ?????? ??? ???, ??? ?????? ?????? ???,  
???? ?????? ?? ?????????? ?? ?????????? ??? ?????????, ??? ?????????? ??? ?? ?????? 1,  
????????? 2, ?????? ??????, ??? ?????? ??? (????????? ??? 17? ??????????  
2013, BG? Leasing, C?224/11, EU:C:2013:15, ????? 29 ??? ????? ?????????????? ??????????,  
??? ??? 10? ?????? 2016, Baštová, C?432/15, EU:C:2016:855, ????? 68 ??? ???  
????????????? ?????????).

41 ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?????? ?????? ??? ??????  
????????? ?????????, ??? ?????? ??? ?????????????? ?????? ??? ??? ?????????? ???  
??? ? ???? ?? ??????????????, ??? ?????? (????? ??? 11? ?????? 2020, San  
Domenico Vetraria, C?94/19, EU:C:2020:193, ????? 26 ??? ??? ?????????? ??????????).

42 ????? ?????????? ?? ??????????, ??? ?????? ???, ??? ?????????? ? ??????  
????????? ??? ?????? 66 ??? ?????????? ???, ?????????? ?????? ?????? ??? ?????????? ??  
????? ??? Apcoa ????? ?????? ?????? ?????? ??? ?????? ??? ?????????????? ???  
??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ? ?????? ???, ??  
????? ?????????? ????. ?????? ?, ?????????? ?????? ??? ?????? ??? ?????? ???  
????????? ???, ??? ??????, ? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ?? ?????? ???  
??? ??? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???.

43 ?????? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ?????? ? ?????? ???  
18? ?????? 2007, Société thermale d'Eugénie-les-Bains (C?277/05, EU:C:2007:440), ?  
????? ?????? ?????? ??? ?????? ???????. ??? ?????? ??? ?????? ??? ?????? ???  
????? ???, ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??????.

44 ?????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? 37 ??? ??????  
????????? ??? ? ?????????? ??? Apcoa, ??????, ??? ?? ??? ??? ?????????? ?? ??????  
????????? ?????? ?????? ?????? ??? ?????? ?????????????? ??? ??? ?????? ??????????  
????????? ??? ?? ??? ??? ?????? ?????? ?????????? ?????????? ???, ?????? ???, ???  
?? ??? ?????? ?????? ??? ?????? ??? ?????? ??????.

45 ??? ???, ???, ?? ?????????? ??? Apcoa ??? ?? ??? ?????? ??? ??????  
????????? ??? ??? ?????? ?????????? ?????? ??? ?????? ?? ??? ?????? ???  
????????? ?????? ??? ?????? ?????? ?????? ???, ?????? ??? ?????? ?????? ???, ???  
??? ?????? ??? ?????? ??? ?????? 2, ?????????? 1, ?????? ??, ??? ?????? ???, ?? ???  
??? ?????????? ???, ??? ?????????? ?? ??? ?????? ?????? ???, ?????????? ??? ? ?????????? ???

????????? ??????? ?? ??????? ?? ?? ????? ?????????????? ? ?????????????? ??? ??????.  
?????????, ??? ?????? ?????????? ?? ?????? ?????? ?? ?????????? ??? ?????? ?????? ??????  
??? ?????????????? ?????????? ?? ??? ?????????????? ?????????? (????????? ??? 11??  
?????? 2020, San Domenico Vetraria, C?94/19, EU:C:2020:193, ??? 29 ??? ???  
????????????? ??????????).

46 ??? ?????, ???????, ?? ?????????? ??? Apcoa ??? ?? ??? ?????? ??? ?????????? ?? ???  
????????? ?????????? ?????????? ?????????????? ?? ?????? ??? ?????? ??????, ??? ??  
???????????, ??? ?????????? ???' ?????? ? ?????? ?????????? ?????????? ??? ?????? 42 ???  
???????????, ???, ??? ????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???,  
? ?????????? ??? ?????? ?????? ? ?????? ?????????? ??? ??? ?????? ?????????? ??????????  
?????? ??? ?????? ??? ?????, ?? ????? ?????? ?? ?????????? ?????????? ?????????? ??? ???  
????????? ??? ?????? ?????? (????????? ??? 22?? ?????????? 2018, MEO – Serviços  
de Comunicações e Multimédia, C?295/17, EU:C:2018:942, ?????? 69 ??? 70).

47 ??????? ??? ??????? ?? ??????????????, ??? ?????????? ??????? ?????? ?? ?????? ?  
????????? ??? ?? ????? 2, ?????????? 1, ????????, ??? ?????? ?????? ??? ?? ?????? ???  
?????? ??? ?? ????? ?????? ??? ?????????? ?????????? ?????????? ?????????? ? ??????  
????????????? ?????????? ?????? ?????????? ?? ?????? ?????????? ?? ???????, ?? ?????? ???  
??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????, ?????? ?? ?????????? ?? ??????????  
??? ?????? ?????? ??? ?????????????? ?? ?????????? ??????, ??? ?? ?????? ??? ??????  
????????? ????, ? ?????? ?????????? ?? ?????? ?????? ??? ???.

??? ??? ?????????? ????

48 ??????? ??? ? ??????? ?????????? ??? ?? ?????? ??? ?????? ?????????? ?? ?????? ???  
??? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ?????????? ,?' ???  
????????? ?? ?????????? ??? ?????? ?????????? ??????. ?? ?????? ??? ?????? ??????????  
??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???  
????????? ????, ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???.

??? ??? ?????? ????, ?? ?????????? (????????? ????) ??????????:

? ? ?????? 2, ?????????? 1, ????????, ??? ?????? 2006/112/?? ??? ?????????? ???  
28?? ?????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????? ?????????? ?????,  
????? ??? ?????? ??? ?? ?????? ?????? ??? ?????????? ?????? ?????????? ?????????? ??????  
? ?????? ?????????? ?????? ?????? ?????? ?????????? ?????? ?????????? ?? ?????????? ?? ???????,  
?? ?????? ??? ??????, ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????, ?????? ??  
????????? ?? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ?????? ?????????? ??  
????????? ????, ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??  
????????? ????, ??? ?????? ?????? (???).

(?????????)

\* ?????? ??????????: ? ??????.