

## Regulation on the Content and Method of Submittal of Request for Issuing of Approval for Proposed Concentration

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Pursuant to Article 23 paragraph 6 of the Law on Protection of Competition, ('Official Gazette of the RS', no. 79/05),

The Government adopted the following

### **REGULATION ON THE CONTENT AND METHOD OF SUBMITTAL OF REQUEST FOR ISSUING OF APPROVAL FOR PROPOSED CONCENTRATION**

#### **Article 1**

This Regulation shall stipulate the content and method of submittal of request for issuing of approval for proposed concentration (hereinafter: request).

#### **Article 2**

Form of request:

- 1) name, address of the head-office and business activities of the applicant, i.e. excerpt from the register where the registration has been entered into,
- 2) name, address of the head-office and business activities of all parties involved in concentration and undertakings referred to in par. 17 and 18 of this Article, i.e. excerpts from the register where the registration has been entered into,
- 3) name, address, phone number, fax and e-mail address of the representative or proxy of the applicant as well as power of attorney, in case the request is submitted by proxy,
- 4) detailed description of the form of concentration,
- 5) copy of the act on concentration, such as:
  - a) act on making or intend to make any form of statute changes,
  - b) act on acquiring or intended acquiring of direct or indirect control or,
  - c) act on realization or intended realization of joint venture,
- 6) detailed financial statement, as well as other reports giving an insight into the financial position of the parties to concentration, for the three years preceding the year of the concentration, which are to be submitted for each year separately,
- 7) total annual income of each party involved in concentration , after the deduction of value added tax and other taxes directly affecting parties to concentration , for the period of three years preceding the year of the concentration, which are to be submitted for each year separately,
- 8) data on the number of employees of the parties to concentration for the period of three years preceding the year of the concentration, which are to be submitted for each year separately,
- 9) list of five main suppliers of the relevant product of each party involved in concentration, including value of supply for three years preceding the year of the concentration, which is to be submitted for each year separately,
- 10) list of five main buyers of the relevant product of each party involved in concentration, including value of sales for three years preceding the year of the concentration, which is to be submitted for each year separately,
- 11) data concerning value and volume of production and sale expressed in CSD, i.e.

number of units or relevant measures realized by parties to concentration on account of sale of products and/or services in relevant market, for three years preceding the year of the concentration, which are to be submitted for each year separately,

12) definition of applicant of relevant market in which the parties to concentration and the controlled undertakings or the controlling undertakings operate as well as estimates of their market shares, prior and upon the concentration has been put into effect,

13) list and estimates of market shares of the main market competitors of parties to concentration in the relevant market,

14) all available analyses, studies, presentations or any other reports necessary for the parties to concentration, dealing with the estimation and analysis of concentration from the viewpoint of position of relevant market, market conditions and existence of any actual and potential competition in relevant market,

15) graphic presentation (diagram) of the organizational chart of the parties to concentration and related undertakings particularly giving an insight into:

a) interrelations between the parties to concentration and related undertakings,

b) shares held by controlling (parent) undertakings in the share capital of the controlled (daughter) undertakings, i.e. shares held by daughter undertakings in other daughter undertakings within concern (expressed in percentage),

16) ownership structure over shares or other share in the undertaking over which a control is acquired, prior and upon the implementation of concentration;

17) list of other undertakings in the relevant market in which the parties to the concentration solely or jointly hold 10% or more share in share capital, i.e. 10% or more shares with voting rights, accompanied by a brief description of the prevailing business activities of the undertakings in question,

18) list of all undertakings in which the members of the management or supervisory board of the parties to concentration are at the same time the members of the management or supervisory board of those undertakings, accompanied by a brief description of the prevailing business activities of the undertakings in question,

19) decisions of other authorities competent for assessment of concentration which have been submitted the request for assessment of the relevant concentration i.e. evidence that the relevant request has been submitted or if there is an intention to do so,

20) detailed description of the distribution and retail network of the goods and/or services in the relevant market, accompanied by the separate description of the distribution and retail network used by the parties to the concentration (own, contractual or alike),

21) description of the realized or intended research and development investments of the parties to the concentration (the form and nature of the investment or research, their influence on the production and distribution of the goods and/or services in the relevant market, amount of the investments in question realized or planned, etc.),

22) description and detailed argumentation of the reasons for implementation of concentration, i.e. argumentations of the resulting benefits for the parties to concentration deriving from the implementation of concentration,

23) description and detailed argumentation of the resulting benefits for the consumers deriving from the implementation of the concentration, particularly:

a) decrease in prices of goods and/or services,

- b) increase in quality of goods and/or services,
  - c) introduction of innovations,
  - d) increase in selection and the range of goods and/or services for consumers.
- Apart from the evidence and enclosures laid down in paragraph 1 of this Article, the applicant may submit other data and enclosures that it considers relevant for the assessment of intended concentration.

Applicant is obliged, at the request of Commission for Protection of Competition (hereinafter Commission), to submit additional data which the Commission considers relevant for the assessment of intended concentration.

### **Article 3**

In the case that the request does not contain all relevant data and supporting documents referred to in Article 2 of this Regulation, the Commission shall request the applicant to supply the missing information within the period set by Commission.

In case the applicant does not act pursuant to the time limit referred to in paragraph 1 of this Article, the Commission shall dismiss relevant request.

### **Article 4**

The request shall be submitted in writing on an A4-sheet of paper accompanied by the electronic version on discs or compact discs.

Applicant is obliged to make the request in the following way:

- 1) all required data as stated in Article 2 of this Regulation shall be written on a separate sheet of paper, providing for the possibility of adding as many sheets as necessary for a more comprehensive and complete presentation and interpretation,
- 2) each sheet of paper shall be initialed by the person responsible for the accuracy and authenticity of the information in request,
- 3) the ordinal number and the exact name of each data, according to the sequence provided for in Article 2 of this Regulation, shall be entered on every page,
- 4) following the ordinal number and the data as described under item 3 of this Article, the applicant shall enter the data, i.e. give a comprehensive description of the circumstances relating to the concentration in question, and in case the data required were not available as provided for in Article 2 hereof, who from and where it tried to obtain the missing information and the reasons why the relevant information could not be collected,
- 5) the applicant shall state evidence, analyses, graphic presentations, diagrams and other documents proving the listed statements laid down in items 3 and 4 of this Article,
- 6) at the end of request, on a separate sheet of paper give a list of all evidence, analyses, graphic presentations and diagrams enclosed signed by the person responsible for the accuracy and authenticity of the information in request, stating place and date where the request has been submitted.

### **Article 5**

The request shall be submitted in Serbian language in one copy.

If any of the requested documents are originally in a foreign language, the applicant is obliged to deliver the copy of the original document and its translation into Serbian

language.

The applicant shall be responsible that the data stated in request are true and complete, as well as that the translation is true and accurate copy of its original.

#### **Article 6**

If the applicant clearly and noticeably points out any data in the request that are considered to be business secret pursuant to the Law on Business Enterprises, i.e. relevant data is marked as a state, military or official secret, the Commission shall act pursuant to Article 55 paragraph 2 of the Law on Protection of Competition ('Official Gazette of the RS', no. 79/05).

Any data in the request which have been marked as confidential pursuant to paragraph 1 of this Article, but for which the Commission has established that they had been previously published or otherwise divulged to the public, the Commission may make public.

#### **Article 7**

The applicant shall make assessment of the relevant market on the grounds of prescribed criteria for determination of relevant market.

#### **Article 8**

In case the applicant states the increase in economic efficiency, as a separate reason for implementation of concentration, it is then obliged to submit the reasons concerning the effects of such increase on the economy of the Republic of Serbia.

#### **Article 9**

This Regulation shall enter into force on the eighth day following the date of its publication in the 'Official Gazette of the Republic of Serbia'.