

Republic of Serbia  
Commission for Protection of Competition  
No. 6/0-02-543/2012-12  
Date: September 20, 2012  
Beograd

On September 20, 2012, President of the Commission for Protection of Competition, pursuant to Article 35, paragraph 2 and Article 62, paragraph 2, of the Law on Protection of Competition ("Official Journal of the RS", no. 51/2009), relating to notification of concentration submitted by company "Centrosinergija" d.o.o. Beograd, Bulevar Milutina Milankovica 19, entered into registry under no. 6/0-02-543/2012-1, issued a following

## RESOLUTION

I Ex officio procedure initiated under notification of concentration by company "Centrosinergija" d.o.o. Beograd, with registered head-office at Bulevar Milutina Milankovica 19, Beograd, Republic of Serbia, reference no. 20734973, represented by proxy, lawyer Ms. Isidora Nikolic Savin from Novi Sad, created by acquisition of control on the part of applicant, over distribution activities of prepaid cards of mobile phone operators Telekom and VIP in the territory of the Republic of Serbia, as a predominant part of overall activities of company "Lanus" d.o.o. Beograd – enterprise for services, trade and engineering, with head-office at Kneginje Zorke 2, Beograd, Republic of Serbia, reference no. 20298693, is continued, in order to investigate whether intended concentration fulfills conditions of permissibility in terms of Article 19, of the Law on Protection of Competition, that is, whether its implementation would restrict, distort or prevent competition on the market of the Republic of Serbia or the part thereof, particularly if such restriction, distortion or prevention would be a result of creation or strengthening of dominant position.

II All persons disposing with data, documents or any other relevant information which may contribute to establishment of relevant factual position in this procedure, are invited to provide the same to Commission for Protection of Competition at Kneginje Zorke 7, Beograd.

III An obligation is established for applicant of concentration – company "Centrosinergija" d.o.o. Beograd, with head-office at Bulevar Milutina

Milankovica 19, Beograd, Republic of Serbia, reference no. 20734973, to effect payment provided for in Article 2, item 7, of the Tarrif on the level of compensation for activities within the competence of Commission for Protection of Competition ("Official Journal of the RS", no.49/2011), for issuance of decision on approval of concentration in inquiry procedure, in the amount of 50.000,00 EUR, or a corresponding dinar countervalue of that amount at the medium rate of exchange of the National Bank of Serbia valid at the date of payment, within the period of 3 days from the date of receipt of this resolution. Applicant of concentration is under obligation to submit to Commission for Protection of Competition, immediately upon payment of compensation, the evidence on effected payment.

IV This resolution is published in "Official Journal of the RS" and on website of the Commssion for Protection of Competition.

### Reasoning

Company "Centrosinergija" d.o.o. Beograd, with registered head-office at Bulevar Milutina Milankovica 19, Beograd, Republic of Serbia, reference no. 20734973 (hereinafter:applicant), on July 23, 2012, submitted to Commission for Protection of Competition (hereinafter: Commission), through proxy, lawyer from Novi Sad, Ms. Isidora Nikolic, notification of concentration (hereinafter: notification) registered in Commission under no. 6/0-02-543/2012, created by acquisition of control over predominant part of activities of company "Lanus" d.o.o. Beograd, that is, over that part of activities of respected company relating to distribution activities of prepaid cards of mobile phone operators Telekom and VIP in the territory of the Republic of Serbia. This business transaction, pursuant to Article 17, paragraph 1, item 2 of the Law on Protection of Competition, is defined as acquisition of sole control on the part of company "Centrosinergija", over previously defined activities of the enterprise for services, trade and engineering of company "Lanus" d.o.o., with head-office at Kneginje Zorke 2, Beograd, Republic of Serbia, company reference no.20298693.

Direct applicant of notification is company incorporated on May 5, 2011, with predominantly registered activity of "specialized representation in sale of specific products" – activity code: 4618. Its sole founder and member, i.e. owner of 100% of share, is company "Centro-Stampa" d.o.o. Beograd with head-office in Beograd

– Novi Beograd, whereas the only owner and member of that company with 100% of share in it, is company a.d. "Centroproizvod" , food industry Beograd with head-office in Beograd – Novi Beograd.

Company "Lanus" d.o.o. Beograd, whose part of activities is taken-over (hereinafter: target company) was founded on June 12, 2007, with predominant registered activity of "consulting activities related to operations and other management" – activity code: 7022. It is a domestic company consisting of two members, whose founders and non-proportional owners are company "Lanus"d.o.o. with 66% of co-owners' share, whereas minority member of that company is enterprise for production, trade and services WP Team Sistem d.o.o. Beograd, with co-owners' share of 34%.

Ba examining submitted notification (initial submission dated July 23, 2012, as well as additionally provided supplements, presented by applicant at the request of Commission on July 21, 2012 and again at its own initiative, on August 31, 2012), it was established that that on the ground of entire submitted and available documents and information, **decision in summary procedure cannot be made.** With regard to such standpoint, it was assessed that the procedure initiated by submission of relevant notification, is to continue ex officio (inquiry procedure). The said procedure shall eliminate certain doubts, above all as concerns checking the accuracy of data submitted by applicant and their acceptability as final data. All this is necessary to implement, in view of the information available at the moment to Commission, which are provided from official sources. Relevant information provided by applicant raise a doubt as concerns accuracy and acceptability of particular, i.e. certain indicators of the conditions on market of distribution of prepaid cards of mobile phone operators, Telekom and VIP – as suggested relevant product/service market for the purpose of assessment of relevant concentration. Commission assessed that the use of different data representing total value of relevant market, also determines significantly high differences of market share expressed in percentage, of parties involved in concentration on relevant market. Those differences apply to data relating to market share of parties involved in concentration stated by applicant in its notification, in relation to the share of the same parties defined by the use of other (different) and according to the opinion of Commission, more acceptable comparative records at the disposal of Commission, regarding total value of relevant market and its "allocation" to particular participants constituting such value of overall relevant market.

So far, Commission received from individual participants active on the suggested relevant market, certain information and accurate data, in written form, relating to

total value of suggested relevant market within the territory of the Republic of Serbia, as well as the share in that value of individual companies- participants on that market. In preliminary examination of these data, which certainly requests further checking of their accuracy, the existence of significant differences in relation to data provided by applicant, was found. On the grounds of said data, i.e. their use in order to make assessment of market share of parties involved in this concentration, the results so reached indicate evident deviation from results reached by and presented to Commission by applicant.

Other established shortcomings and dilemmas relating to the content of submitted notification apply to following findings established, so far, by the Commission in its acting under relevant notification, and which, in the course of inquiry procedure, shall be further investigated and cleared:

- verification of participation and activities of company Centrosinergija and with it affiliated companies on suggested relevant market, prior to and upon implementation of concentration and their share on that market in relation to those two time periods. This is necessary to establish because of information presented by applicant to Commission, relating to mentioned market share which shall have its participants on suggested relevant market, prior to and upon implementation of concentration, and which shall (those market share) remain unchanged (around 30%). In several points in submitted notification – initial submission, as well as in subsequently presented supplements, applicant, in assessing market share of parties involved in concentration points out that at the time of signing the agreements on takeover of mentioned business, they amounted to 0,0% for Centrosinergija, and 30,79% for Lanus. All this suggests that the implementation of relevant transaction does not lead to cumulation of individual share of its direct participants, or with them affiliated companies. However, information currently at the disposal of Commission indicates that the existing market share held by the part of target business company Lanus on suggested relevant market, would be significantly altered, i.e. increased, upon takeover of mentioned business of that company by Centrosinergija. All that determines grounded doubt, that the said concentration does not lead to so called "entering into boots" (term used to describe situation when the party acquiring control – company engaged in takeover or with it affiliated companies, considered together as one market participant, by realization of acquisition, for the first time enter the business in which target company, or its part, is engaged) but it is a matter of aggregation of individual power of parties involved in this concentration, existing prior to concentration, which is to be checked and established in the course of inquiry procedure.

- detailed analysis of content of all information received on the ground of item 2 of enacting terms, which shall be taken into consideration by Commission, in order to give its assessment of their consistency, i.e. accuracy and acceptability, along with information and data already presented to Commission by individual participants on mentioned relevant market.

- establishment of factual position between parties involved in this concentration, i.e. applicant on one part and target business company Lanus, which is the object of takeover by Centrosinergija, on the other, that is, whether in actual case it is a matter of concentration already implemented.

Considering the above stated, Commission assessed that the conditions for ex officio investigation of relevant concentration have been met in terms of provisions of Article 62, paragraph 2 relating to Article 19 of the Law. In procedure continued ex officio, Commission shall obtain and examine all necessary evidence, in order to accurately and in its entirety establish factual position and evaluate whether the conditions of permissibility of concentration, referred to in Article 19 of the Law, were met.

Article 19 of the Law stipulates that concentrations of market participants are allowed, except in cases when they would significantly restrict, distort or prevent competition on the market of the Republic of Serbia, particularly if such restriction, distortion or prevention would be a result of creation or strengthening of dominant position.

Article 62, paragraph 1, of the Law, provides that Commission may, upon obtaining information on implemented concentration, conduct investigation of concentration, if it finds that the joint market share of parties involved in concentration on the market of the Republic of Serbia accounts for at least 40%, i.e. if it validly assumes that the said concentration does not meet the conditions of permissibility referred to in Article 19 of this Law, as well as in the case of other concentration which was not approved in line with this law.

Article 62, paragraph 2 of the Law provides that, if in the course of investigation procedure conducted under notified concentration, Commission finds that the conditions for ex officio investigation procedure are met, as stated in paragraph 1 of this Article have been met, the procedure shall continue ex officio in line with the resolution issued by the President of the Commission.

Pursuant to provisions of Article 62 of the Law, it was decided as in paragraph I of enacting terms.

Pursuant to provisions of Article 35, paragraph 2 of the Law, it was decided as in paragraph II of enacting terms.

Pursuant to provisions of Article 65, paragraph 5 of the Law, it was decided as in paragraph III of enacting terms.

Pursuant to provisions of Article 40 of the Law it was decided as in paragraph IV of enacting terms.

Vesna Jankovic  
President of the Commission

Remedial act:

Against this resolution, a separate appeal is not allowed