



Republic of Serbia

**COMMISSION FOR PROTECTION
OF COMPETITION**

Number: 6/0-03-396/2016-150

Reference: 6/0-02-296/2016

Date: August 11, 2016

Belgrade

Pursuant to Article 22(2) of the Law on Protection of Competition (“Official Gazette of the RS”, nos. 51/09 and 95/13), Article 192 of the Law on General Administrative Procedure (“Official Gazette of the FRY”, nos. 33/97, 31/01 and “Official Gazette of the RS”, no. 30/10), and Article 2(1/7) of the Tariff on the level of compensation for activities within the competence of the Commission for Protection of Competition (“Official Gazette of the RS”, no. 49/11), deciding in the proceeding instituted under the Notification on concentration submitted by Sunoko LLC Novi Sad, with registered seat at the address 7 Marije Trandafil Square, Novi Sad, represented by plenipotentiary Bojan Vučković and other attorneys from the Law office “Karanović and Nikolić” a.o.d. from Belgrade, 23 Resavska Street, on the 73rd Session held on August 11, 2016, in the proceeding continued *ex officio*, Council of the Commission for Protection of Competition enacts the following

DECISION

I Concentration of undertakings **IS APPROVED**, which is created by acquisition of direct control on the part of Sunoko LLC Novi Sad, with registered seat at the address 7 Marije Trandafil Square, Novi Sad, registered in the Business Registers Agency of the Republic of Serbia under company registration number 20051183, over Star Šećer LLC Senta, with registered seat at the address 6 Zlatne grede Street, Senta, registered in the Business Registers Agency of the Republic of Serbia under company registration number 08766835, created by executing a takeover of 100% of shares in the target company, thus acquiring indirect control over Sugar factory TE-TO Senta JSC, with registered seat at the address bb Karađorđeva Street, Senta, registered in the Business Registers Agency of the Republic of Serbia under company registration number 08618526, **CONDITIONED TO** implementing behavioral measures from Paragraph II of enacting terms of this Decision.

II The proposal of special conditions, deadlines for execution thereof and manner for performing control over execution of conditions contained in the proposal of Sunoko LLC Novi Sad **IS ADOPTED**, specified with the objective that implementation of concentration from Paragraph I of enacting terms hereof, fulfils conditions for related approval, thus the following conditions in the form of behavioral measures **ARE ESTABLISHED**, namely:

1. Commitment to report on the processed sugar beets and manufactured sugar

Sunoko LLC Novi Sad undertakes that until the abolition of customs duties and levies on sugar imports in the Republic of Serbia, and not extending the period of subsequent five years from the Commission Decision's legal validity date regulating conditional approval of related concentration, to submit to the Commission for Protection of Competition annual reports in written and e-form on the processed sugar beets and manufactured sugar quantities, no later than end-March of the current year for the previous year, and separately for each of sugar refineries owned by Sunoko LLC Novi Sad, including the Sugar factory TE-TO Senta JSC.

2. Commitment to announce publically the sale of factory in the case of liquidation or enacted decision of a legal entity resulting in permanent closing of individual sugar refineries under their management

Sunoko LLC Novi Sad undertakes that until the abolition of customs duties and levies on sugar imports in the Republic of Serbia, and not extending the period of subsequent five years from the Commission Decision's legal validity date regulating conditional approval of related concentration, in the case of enacted decision on liquidation of a legal entity that manages individual sugar refineries, including the Sugar factory TE-TO Senta JSC in accordance with the Law on Companies of the Republic of Serbia, or in the case of enacted decision by the said legal entity resulting in permanent closing of an individual, several or all sugar refineries under its management, which would cause the complete and permanent release of assets (production capacities) of sugar refineries or sugar refineries as legal entities from the relevant market of sugar production, to previously announce publically the sale of equity or property of a sugar refinery managed by the said legal entity in full and complete compliance with current legislations, wherewith Sunoko LLC Novi Sad is not obligated to behave in such manner concerning the Sugar factory TE-TO Senta JSC in the case of bankruptcy or due to the act of God.

Commitment to announce publically implies single advertising in no less than three daily newspapers regularly distributed in the entire territory of the Republic of Serbia and in one foreign newspaper specialized in the economy and finances published in the territory of the EU, or on an Internet portal typically utilized for distribution of business related news (for example: Mergermarket), in the print edition if possible, or on-line.

3. Commitment to report on prices

Sunoko LLC Novi Sad undertakes that until the abolition of customs duties and levies on sugar imports in the Republic of Serbia, and not extending the period of subsequent five years from the Commission Decision's legal validity date regulating conditional approval of related concentration, to submit to the Commission for Protection of Competition annual reports in written and e-form, no later than end-March of the current year for the previous year, which will contain the following data and documentation:

- total sugar sale levels on the domestic market presented in product quantity units (in 000 t) and value (in EUR currency);
- total sugar sale levels on international markets presented in product quantity units (in 000 t) and value (in EUR currency), individually for the EU and CEFTA markets;
- weighted average selling price (EUR/t) for so-called "spot" sale contracts on the domestic market under the CIP terms of delivery of sugar refineries;
- weighted average selling price (EUR/t) for so-called "futures" sale contracts on the domestic market under the CIP terms of delivery of sugar refineries;
- weighted average selling price (EUR/t) for the so-called "spot" export sale contracts, individually for the EU and CEFTA markets under the CIP terms of delivery of sugar refineries;
- average weighted selling price (EUR/t) for the so-called "futures" export sale contracts, individually for the EU and CEFTA markets under the CIP terms of delivery of sugar refineries;

Additionally, in reference to reports from the above-mentioned lines, Sunoko LLC Novi Sad shall every 6 (six) months (no later than end-March and end-September for the corresponding six months period) submit reports to the Commission for Protection of Competition on the incurred changes concerning sugar prices, particularly for markets of Serbia, EU, CEFTA and potentially third markets, under the CIP terms of delivery of sugar refineries, VAT free, with submitted rationale on the causes and intensity of incurred changes.

4. Commitment to submit the Sale policy of Sunoko LLC Novi Sad

Sunoko LLC Novi Sad undertakes to submit in written or e-form the Sale policy for domestic sugar buyers to the Commission for Protection of Competition, upon enacting the said document by Sunoko LLC Novi Sad, and no later than six months from the Commission Decision's legal validity date regulating conditional approval of related concentration.

5. Commitment to report on amendments to valid contracts of the Sugar factory TE-TO Senta JCS

Sunoko LLC Novi Sad undertakes to submit to the Commission for Protection of Competition

with no delays or in the deadline not exceeding 30 calendar days from the day of enacting amendments and/or termination of contracts, reports in written form on amendments and/or termination of contracts, with explanations of potential amendments and/or termination of contracts of the Sugar factory TE-TO Senta JSC considered valid on the Commission Decision's legal validity date regulating conditional approval of related concentration, and concluded by the Sugar factory TE-TO Senta JSC with its sugar buyers, if such amendments and/or termination of contracts occur. Thereat, amendments shall be considered as those altering material provisions of contracts such are price, quantity, date of delivery, while the termination of contracts shall be only accepted in the case of illegal contracts, detrimental for the Sugar factory TE-TO Senta JSC, or contracts concluded opposite to *bona fide* in business operations and fair business practices, which shall be estimated against conditions provided to sugar buyers of the Sunoko LLC Novi Sad. This behavioral measure shall be valid until the end of calendar year 2017.

6. Commitment to report on acts taken toward maintaining business operations of the Sugar factory TE-TO Senta JSC

Sunoko LLC Novi Sad undertakes that until the abolition of customs duties and levies on sugar imports in the Republic of Serbia, and not extending the period of subsequent five years from the Commission Decision's legal validity date regulating conditional approval of related concentration, to submit to the Commission for Protection of Competition annual reports in written and e-form, and no later than end-March of the current year for the previous year, on measures and acts taken toward maintaining business operations of the Sugar factory TE-TO Senta JSC (which may include, but are not limited to: repayment or debts, assumption of other financial expenditures, transfer of technical and technological know-hows and experiences, transfer of managerial know-hows and experiences, measures influencing the increase of production effectiveness and reduction of sugar cost prices, as well as other, direct or indirect, financial, technical and technological, managerial and other measures).

III IT IS ESTABLISHED that Sunoko LLC Novi Sad has executed payment in the amount of RSD 6,136,160.00 (in words: six million, one hundred thirty-six thousand, one hundred sixty Dinars) to the account of the Commission for Protection of Competition maintained with the Treasury Administration of the Ministry of Finance of the Republic of Serbia, which represents determined amount of the fee as compensation for issuing decision on approval of concentration in investigation procedure from Article 2(1/7) of the Tariff on the level of compensation for activities within the competence of the Commission for Protection of Competition.