



Republic of Serbia
**COMMISSION FOR PROTECTION
OF COMPETITION**

25/IV Savska St., Belgrade
Number: 6/0-03-600/2019-1
Reference number: 6/0-02-587/2019
Date: July 2, 2019

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Pursuant to Article 35(2) and Article 62(2) of the Law on Protection of Competition (Official Gazette of the RS 51/09 and 95/13), and Article 2(1/7) of the Tariff on the level of compensations for activities within the competence of the Commission for Protection of Competition (Official Gazette of the RS 49/11), deciding in a merger control procedure initiated upon receipt of a merger notification No. 6/0-02-587/2019-1, submitted by company “Roaming Electronics” doo, with registered seat at the address 10 Južni Blvd., Belgrade, via procuration holder, attorney at law Bojan Vučković from the Law Office “Karanović & Partners”, 23 Resavska St., Belgrade, on July 2, 2019, the President of the Commission for Protection of Competition enacts the following

CONCLUSION

I PROCEEDINGS SHALL BE RESUMED *EX OFFICIO*, initiated upon receipt of a merger notification relating to the acquisition of individual control on the part of company “Roaming Electronics” doo, with registered seat at the address 10 Južni Blvd., Belgrade, company number 17540602, over the following companies: 1) “WINWIN SHOP” doo, with registered seat at the address 18 Kneza Vase Popovića St., Čačak, company number 21162094, 2) “Emmi House” doo, with registered seat at the address 78g Oslobodilaca Čačka Blvd., Čačak, company number 21287733, and 3) “WINWIN RETAIL” doo, with registered seat at the address 78g Oslobodilaca Čačka Blvd., Čačak, company number 21439860, in order to investigate whether the notified merger fulfils the conditions of permissibility referred to in Article 19 of the Law on Protection of Competition, that is, whether the implementation of said concentration would significantly restrict, distort, or prevent competition in the market of the Republic of Serbia or its part, and especially if that restriction, distortion, or prevention would be the result of creating or strengthening of dominance.

II ALL PERSONS ARE INVITED to forthwith submit all data, documents or other relevant information in their possession that could contribute to the accurate fact-finding in this proceeding to the Commission for Protection of Competition, to the address 25/IV Savska St., Belgrade.

III COMMITMENT SHALL BE DETERMINED with respect of the party, company “Roaming Electronics” doo, to compensate for the issuance of a decision on the approval of concentration in investigation procedure in the total amount of XXX, whereas the dinar equivalent value of XXX paid upon merger notification shall count against the total amount, and **IT SHALL BE ORDERED** to the

party, company “Roaming Electronics” doo, to make payment of the remaining amount of the fee of XXX into the account of the Commission for Protection of Competition maintained with the Treasury Administration of the Ministry of Finance of the Republic of Serbia, number 840-880668-16, reference number 6/0-03-600/2019, no later than 15 (fifteen) days from the date of receipt of this conclusion.

IV This conclusion shall be published in the Official Gazette of the Republic of Serbia and on the internet page of the Commission for Protection of Competition.

Rationale

Company “Roaming Electronics” doo, with registered seat at the address 10 Južni Blvd., Belgrade, company number 17540602 (hereinafter, the Party) has filed a merger notification No. 6/0-02-587/2019-1 on June 25, 2019, via procuration holder, attorney at law Bojan Vučković from the Law Office “Karanović & Partners”, 23 Resavska St., Belgrade, in order to acquire individual control over the following companies: 1) “WINWIN SHOP” doo, with registered seat at the address 18 Kneza Vase Popovića St., Čačak, company number 21162094, 2) “Emmi House” doo, with registered seat at the address 78g Oslobodilaca Čačka Blvd., Čačak, company number 21287733, and 3) “WINWIN RETAIL” doo, with registered seat at the address 78g Oslobodilaca Čačka Blvd., Čačak, company number 21439860 (hereinafter, target companies or WINWIN group).

Company “Roaming Electronics” operations are organized within the Roaming group of companies whose ultimate parent undertaking is Koefik d.o.o. Beograd (owned by natural person Nenad Kovač). Company Roaming Electronics was established in 2004 and is engaged in the import and distribution of consumer electronics and mobile devices, with own distribution network – Tehnomanija. This company cooperates with a number of global brands and supplies retail stores, business users and operators with their products. Company Tehnomanija was established in 1999, and since then operates in the field of retail trade of electrical and electronic household appliances.

The target companies’ operations are organized within the WinWin group of companies (owned by natural person Aleksandar Jevtović), including the WinWin retail chain that offers a number of IT and audio/visual equipment in its range of products, as well as household appliances, small household appliances, video surveillance equipment, watches, jewelry, children's toys, health and fitness apparatus, and many other appliances and devices. WinWin is a partner of household name brands and manufacturers, selling both online and in about 104 traditional brick-and-mortar retail stores nationwide. WinWin is a company that operates in Bosnia and Herzegovina, Montenegro, and Serbia.

Company “WINWIN RETAIL” was established in December 2018 for the internal reorganization of the WinWin group, given that natural person Aleksandar Jevtović plans, for the purpose of the merger concerned, to transfer the business of company WinWin to WinWin Retail. Company Emmi House is a retail chain operating within the WinWin group. Emmi House was created by launching of the website emmi.rs and opening its first retail store in Belgrade, followed by the expansion to three additional locations: Niš, Novi Sad, and New Belgrade. Emmi House retail stores can currently be found at more than 20 new sites across Serbia.

As a merger act, the merger notification indicates the Agreement on General Terms and Conditions, concluded on June 10, 2019, between the Party and natural person Aleksandar Jevtović. This agreement stipulates that the Party and Aleksandar Jevtović will establish a company (75% and 25%

share, respectively) to which the shares and/or assets, i.e. business operations of the target companies will be transferred, and which will control the target companies. In that manner, the Party will exercise indirect individual control over the target companies. The merger notification was filed pursuant to Article 63(2) of the Law on Protection of Competition (Official Gazette of the RS 51/09 and 95/13, hereinafter, the Law).

Based on data provided on the combined aggregate worldwide and national turnover of the merger parties, the Commission for Protection of Competition (hereinafter, the Commission) has established that there is a mandatory notification requirement of the merger concerned since the combined aggregate turnover of the parties exceeds thresholds set out in Article 61 of the Law, established under the pre-merger notification regime.

In line with the Party's request and in pursuit of efficiency and effectiveness of the proceedings, based on the official records No. 6/0-02-587/2019-4 of June 27, 2019, the file in case No. 6/0-03-319/2019 (reference No. 6/0-02-142/2019) are added to the file in case No. 6/0-02-587/2019.

For the purposes of this merger control proceedings, the Party has proposed to define the following relevant product markets: small household appliances, major household appliances, TV, audio and video equipment, mobile and landline phones, and computers and other IT equipment. As the relevant geographic markets, the Parties have proposed the following narrower geographic units, that is, cities where the merger parties' operations overlap (business operations of the Party and the target companies): Belgrade, Čačak, Kragujevac, Kraljevo, Kruševac, Niš, Novi Sad, Pančevo, Ruma, Sombor, Sremska Mitrovica, Subotica, Šabac, Valjevo, and Zrenjanin.

Based on data and information contained in the Merger notification relating to the merger parties and other undertakings active on the markets proposed by the Party as relevant markets, it is apparent that the merger could cause a significant degree of horizontal overlaps between the activities of merger participants in particular markets, with significant market share.

Based on data and information contained in the Merger notification and case files No. 6/0-03-319/2019, that is, information at the Commission's disposal, there are reasonable grounds to believe that a substantial change in the market structure and a significant increase in the market shares in particular relevant markets will be created, especially in the markets of Belgrade, Pančevo, Sremska Mitrovica, and Zrenjanin.

In the proceedings No. 6/0-03-319/2019, the Commission has established market shares of the Party and the target companies, as well other undertakings in the relevant markets based on the data on aggregate turnover provided to the Commission by the Parties, target companies and their competitors. The total size of each of the markets was established as the combined retail sales turnover by each of the product categories of all undertakings in the concrete market, while the market shares are based on the turnover generated by each undertaking. Pursuant to Article 6(2) of the Regulation on the content and means of submission of merger notifications (Official Gazette of the RS 5/2016), the Commission has determined the degree of concentration in the proposed relevant markets, marked as the Herfindahl-Hirschman Index (hereinafter, HHI). The HHI represents the sum of individual squares of market shares of each undertaking on the relevant market. The change (delta) of HHI is equal to twice the product of the market shares of the merging firms, that is, the change in HHI value before and after the merger concerned.

In particular, but not limited to, for example, retail sale market of small household appliances, retail sale market of large household appliances, and retail sale market of TV, audio and video equipment

in Belgrade, the market share of the Party following the merger concerned would be around /50-60/%, that is /50-60/%, that is /50-60/%, respectively. The HHI would be 3244, that is 3564, that is 3199, respectively, while the change in HHI in these markets would be 1182, that is 1124, that is 1103, respectively.

For example, in the retail sale market of small household appliances, retail sale market of large household appliances, retail sale market of TV, audio and video equipment, retail sale of mobile and landline telephones, and retail sale market of computers and other IT equipment in Pančevo, the market share of the Party following the merger concerned would be around /70-80/%, /60-70/%, /70-80/%, /60-70/%, and /70-80/%, respectively. The HHI would be 6133, that is 4748, that is 6164, that is 5510, that is 6060, respectively, while the change in HHI on these markets would be 1525, 1241, 2145, 2050, and 2776, respectively.

The Commission assesses that this case could relate to highly concentrated markets, in accordance with the Commission and EU practices, as well as that the merger concerned could significantly increase the degree of concentration in particular relevant markets, i.e. that the merger concerned does not represent a case when it is considered that there is no risk to the competition and when the case does not merit an in-depth analysis of the merger effects.

Pursuant to Article 62 of the Law, the Commission may resume merger control proceedings *ex officio* if it finds that the aggregate market share of merger participants in the market of the Republic of Serbia is at least 40%, i.e., reasonably assumes that the concentration fails to fulfill the conditions of permissibility referred to in Article 19 of the Law, pursuant to a conclusion enacted by the Commission President. In order to enact a decision pursuant to the Law, it is necessary to establish further facts in relation to which the Commission will define the relevant market and evaluate the effects of the merger concerned. It is found that the data and information submitted by the Party are insufficient to establish the permissibility of said merger in summary procedure and it is, therefore, necessary to conduct an investigation procedure. In the investigation procedure, the Commission will conduct all necessary actions and establish all facts and present evidence necessary for the definition of the relevant markets, in particular, but not limited to, data against which will establish the possibility of substitution on the supply and demand side of the suppliers/consumers of the services concerned, analysis of the structure of the relevant market(s), the degree of concentration of the relevant market(s), identification of real and potential competitors, market position of the merger participants and their competitors, legal and other barriers to entry into the relevant market, level of competitive intensity of merger participants, consumer interests, etc. The Commission shall also analyze the vertical effects of the merger concerned.

A particular aspect of the analysis in this proceeding shall be based on data and assessments of direct or delayed effects of the merger concerned, obtained from the most important competitors of the merger participants, active in each of the markets defined as relevant in the proceedings concerned.

Taking into account all the facts that derive from the content of the Merger notification and addenda to the Merger notification, as well as for the reasons individually elaborated and substantiated, it is therefore determined that the conditions for instituting investigation procedure *ex officio* are fulfilled with regard to the merger concerned, within the meaning of Article 62(2) read in conjunction with Article 19 of the Law.

The decision set out in Paragraph I of enacting terms herein is adopted under Article 62 of the Law.

The decision set out in Paragraph II of enacting terms herein is adopted under Article 35(2) of the Law.

The decision set out in Paragraph III of enacting terms herein is adopted under Article 65(5) of the Law and Article 2(7) of the Tariff on the level of compensations for activities within the competence of the Commission for Protection of Competition.

The decision set out in Paragraph IV of enacting terms herein is adopted under Article 40 of the Law.

Instruction on legal remedy:

This conclusion is not susceptible to separate appeal, but is permitted to institute an administrative dispute against the final decision of the Commission.

PRESIDENT OF THE COMMISSION

Dr Miloje Obradović, m.p.