

## GOVERNMENT OF THE REPUBLIC OF CROATIA

Pursuant to Article 15 paragraph (4) of the Competition Act (Official Gazette, No 79/2009), the Government of the Republic of Croatia in its session held on 17 March 2011, adopted the following

### REGULATION ON NOTIFICATION AND ASSESSMENT OF CONCENTRATIONS

#### I GENERAL PROVISIONS

##### *Subject Matter of the Regulation*

##### Article 1

This Regulation stipulates the notification of concentrations and the assessment criteria of the compatibility of concentrations between undertakings in the proceedings carried out by the Croatian Competition Agency (hereinafter: the Agency) within the meaning of the provisions laid down by the Competition Act (hereinafter: the Act).

##### *Definitions*

##### Article 2

For the purpose of this Regulation:

- a) "undertaking" is a person within the meaning Article 3 of the Act;
- b) "concentration between undertakings" shall be deemed to arise where there is a change of control of the undertaking on a lasting basis where the control is acquired within the meaning of Article 15 paragraphs (1), (2) and (3) of the Act;
- c) "consolidated aggregate annual turnover" shall comprise the turnover derived by the undertakings parties to the concentration from all economic activities for which the undertakings concerned have been registered;
- d) "aggregate turnover" shall mean the turnover realized by an undertaking from all economic activities for which it has been registered;
- e) "products" means goods and/or services which are the subject of the business operations of the undertaking;
- f) "relevant market" is defined as a market of certain goods and/or services which are the subject of the business operations performed by the undertaking in a specific geographic territory within the meaning of Article 7 paragraph (1) of the Act and the Regulation on the definition of relevant market;
- g) "notification form" is the form which is used to notify the concentration prior to its implementation to the Agency within the meaning of Article 19 paragraph (1) of the Act;
- h) "notifying party" is the undertaking which on a lasting basis acquires control or decisive interest over another undertaking or part of another undertaking, or all parties to

the concentration which agree on the submittal of one joint notification within the meaning of Article 19 paragraph (2) of the Act;

i) "short-form notification" is the form which is used by the notifying party prior to the implementation of the concentration between undertakings in the case of concentrations which are subject to short notification procedure for the assessment of compatibility of concentrations within the meaning of Article 20 paragraph (4) of the Act.

j) "effective day of notification " is the day of the receipt of the complete notification i.e. the day on which the Agency receives all documents and information laid down by the Act and this Regulation. The Agency shall notify the notifying party on the receipt of the complete notification.

k) "request for information" is a request published by the Agency on its web site aimed at all interested persons who may submit to the Agency their written replies containing comments and opinions relating to the concentration concerned. The content of the reply to the request for information is laid down in Article 21 paragraph (6) of the Act;

l) "Statement of Objections" is a statement provided by the Agency on preliminary established facts in the procedure referred to in Article 48 of the Act;

m) "behavioural remedies and/or structural remedies" are measures, conditions and obligations (commitments) aimed at elimination of anticompetitive effects of a concentration. Commitments may be offered and submitted in the notification by the notifying party whereas it is obliged to do so if specifically requested by the Agency in the course of the assessment procedure relating to the concentration concerned.

### *Scope of Application*

#### Article 3

The Regulation shall apply to all concentrations deemed to arise within the meaning of Article 15 of the Act, where they are subject to prior notification of a concentration laid down in Article 17 paragraph (1) of the Act or where they are subject to obligatory notification prior to its implementation in line with specific rules.

## II PRIOR NOTIFICATION OF CONCENTRATIONS

### *Notifying Party*

#### Article 4

(1) The notifying party shall notify the concentration prior to its implementation to the Agency within the meaning of Article 19 paragraph (2) of the Act and Article 2 item (h) of this Regulation where the conditions set under Article 17 of the Act are met, regardless of the fact if it submits the full notification or the short-form notification in line with Article 20 of the Act and Article 2 items (g) and (i) of this Regulation.

(2) By way of derogation from paragraph (1) hereof the concentrations in the media sector also fall under the competence of the Agency. The concentrations in the media

sector are regulated by a separate law and where a concentration in the media market arises in accordance with Article 15 paragraphs (1), (2) and (3) of the Act the notifying party referred to in Article 2 item (h) of this Regulation shall submit the prior notification of the concentration concerned to the Agency regardless of the turnover realised by the parties to this concentration.

*Submission of notifications and information and documents to be provided*

Article 5

(1) Within the meaning of Article 20 of the Act and this Regulation the notifying party shall provide and submit to the Agency all information, documents, certifications and evidence necessary for the assessment of compatibility of the concentration referred to in the prior notification.

(2) The notification of the concentration shall be submitted in the Notification Form specified in Annex I which is its constituent part.

(3) The short-form notification which is used by the Agency in the simplified procedure for the assessment of compatibility of a concentration shall be submitted in the Short-Form attached to this Regulation as its Annex II.

(4) All information stated in the Notification Form referred to in paragraphs (2) and (5) hereof, without prejudice to the data and information explicitly marked in the Notification Form as voluntary and deliberate, as well as the information specified under the Short-Form referred to in paragraphs (3) and (5) hereof shall constitute a compulsory notification.

(5) The notifying party shall state in its notification if it is obliged to submit the prior notification of a concentration also to some other competent merger control authority outside the territory of the Republic of Croatia, or if such a notification has already been submitted. If the decision of some other merger control authority outside the territory of the Republic of Croatia has already been made, the notifying party shall submit the decision concerned to the Agency.

(6) Apart from the compulsory content of the notification referred to in paragraphs (2), (3) and (5) hereof, within the meaning of Article 21 paragraph (4) the Agency is empowered to request any supplementary data which it might find necessary in the assessment of the effects of the concentration concerned. The notifying party may in the supplement of the notification, or in the course of the procedure, submit to the Agency any data and documents which it finds relevant for the assessment of the concentration concerned on the account of the fact that the burden of proof in terms of positive effects of the concentration lies on the parties to the concentration.

## *Time Limits for Notification*

### Article 6

(1) The concentration shall be notified to the Agency by the notifying party in compliance with the provisions of this Regulation following the conclusion of the agreement on the basis of which control or decisive influence is acquired over an undertaking or a part of an undertaking, or the announcement of the public bid, but prior to the implementation of the concentration within the meaning of Article 19 paragraph (3) of the Act.

(2) By way of derogation from paragraph (1) hereof the notifying party may make a pre-notification of a concentration within the meaning of article 19 paragraph (4) of the Act, before the agreement has been concluded, or before the public bid has been announced, were the undertakings concerned demonstrate to the Agency a good faith intention to conclude an agreement or, in the case of a public bid, where they have publicly announced an intention to make such a bid.

## *Suspension of Concentrations*

### Article 7

(1) A concentration shall not be implemented before its notification or until it has been declared compatible.

(2) The implementation of a concentration shall be allowed only after the expiry of the time limit set under Article 22 paragraph (1) of the Act, where the Agency does not pass a resolution on the initiation of the proceeding on the basis of the fact that it deems the concentration compatible, or where the Agency makes a decision on the basis of which it declares the concentration compatible or conditionally compatible within the meaning of Article 22 paragraph (7) items (1) and (2) of the Act.

(3) By way of derogation from paragraph (2) hereof the Agency may, in dully justified cases, on request of the parties to the concentration, grant the implementation of certain operations relating to implementation of the notified concentration before the expiry of the time lime concerned or before the delivery of the decision referred to under paragraph (2) hereof. In its assessment the Agency shall take into account all circumstances of the case, particularly the nature and gravity of the effects of the suspension on the parties to the concentration or on a third party and the threat to competition posed by the concentration should it be implemented.

## *How to notify-Form*

### Article 8

(1) The notification, documentation, data and all certifications which are submitted to the Agency together with the notification shall be submitted in the Croatian language. If the original notification, the documentation, the supporting documents or certifications are in a foreign language, the notifying party shall also provide the certified translation into Croatian enclosed to the original copy or a certified photocopy of the original document (in the original language).

(2) One copy of the notification and all supporting documentation shall be submitted to the Agency in writing. The written notification shall be accompanied by both the electronic version of the notification and the supporting documentation.

(3) By way of derogation from paragraph (2) hereof the Agency may request the submittal of more copies of the notification. In such a case additional copies of the documentation and certifications within the meaning of paragraph (1) hereof need not to be certified.

(4) The data stated in the notification must be accurate and complete.

### *Confidential Information*

#### Article 9

(1) Within the meaning of Article 41 paragraph (4) of the Act the notifying party shall clearly identify any material which it considers to be confidential pursuant to Article 53 of the Act.

(2) Where the notifying party does not act in line with paragraph (1) hereof, the Agency may publish the following data: all data not marked as confidential in the notification as referred to in paragraph (1) hereof, any other data which have been submitted to the Agency by the notifying party in compliance with paragraph (1) hereof, any data where the Agency does not agree with the reasoning of the notifying party as to the confidentiality of the data concerned in line with Article 53 paragraph (2) item (2) of the Act, or where the Agency establishes that the data in question as referred to in Article 53 paragraph (5) may not be considered confidential.

## III SEPARATE PROVISIONS RELATING TO CREDIT AND OTHER FINANCIAL INSTITUTIONS

### *Calculation of Turnover*

#### Article 10

(1) Where appraising the compatibility of a concentration involving credit and other financial institutions, including insurance and reinsurance companies as parties to the concentration, the aggregate turnover shall be calculated for these undertakings shall be

calculated on the basis of the aggregate turnover derived from the normal operation by the undertakings concerned in the financial year preceding the concentration.

(2) For credit institutions and other financial institutions providing financial services, in place of the aggregate turnover referred to under paragraph (1) hereof the sum of the following income items shall be used, after deduction of value added tax and other taxes directly relating to those items:

1. interest income and similar income;
2. income from securities:
  - income from shares and other variable yield securities,
  - income from participating interests,
  - income from shares in affiliated undertakings;
3. commissions receivable;
4. net profit on financial operations;
5. other operating income (such as fees and other non-interest income)

(3) For insurance and reinsurance undertakings, for the purpose of establishing the aggregate turnover referred to under paragraph (1) hereof the value of gross premiums written which shall comprise all amounts received and receivable in respect of insurance contracts issued by or on behalf of the insurance undertakings, including also outgoing reinsurance premiums, and after deduction of taxes and parafiscal contributions or levies charged by reference to the amounts of individual premiums or the total volume of premiums shall be taken into account.

### *Notice on Acquisition of Shares or Share Capital*

#### Article 11

(1) Referring to the cases under Article 15 paragraph (5) item (1) of the Act, credit and other financial institutions, investment funds and insurance companies shall communicate to the Agency in writing about the acquisition of shares or equity participation in other undertakings, or in the case where they hold the acquired shares or participate in the capital of other undertakings on a temporary basis with the view of reselling them, carried out in the normal course of business of these institutions which includes transactions and dealing with securities for their own account or for the account of third parties (hereinafter: the person submitting the notice).

(2) The notice referred to in paragraph (1) hereof shall be submitted electronically and in writing using the Form provided in Appendix 3 of this Regulation which is its constituent part thereof.

(3) The notice referred to in paragraphs (1) and (2) hereof shall be appropriately subject to the provisions laid down in Articles 8 and 9 of this Regulation.

### *Request for Extension of the Period*

## Article 12

(1) The request for extension of the period referred to under Article 15 paragraph (5) item (1) of the Act shall be submitted to the Agency by the person submitting the notice referred to in Article 11 of this Regulation at the latest 30 days before the expiry of the period indicated in the relevant provision of the Act.

(2) The request shall be submitted electronically and in writing. It shall contain:

- a) the reasons why the transaction of shares or equity has not been possible within the period set under Article 15 paragraph (5) item (1) of the Act;
- b) the period for which the period set should be extended to carry out the transaction in question, which cannot exceed six (6) months.

(3) The Agency shall adopt a separate decision on the request for the extension of the period.

## VI EXAMINATION OF THE NOTIFICATION

### *Examination of the Completeness of the Notification*

## Article 13

(1) After the Agency has received the notification of a concentration referred to in Article 5 paragraph (2) of this Regulation or the short-form notification of a concentration referred to in Article 5 paragraph (3) of this Regulation it shall make sure whether:

- (a) the notification has been submitted by the authorised person,
- (b) the notification has been submitted in the prescribed number of copies,
- (c) the notification contains all prescribed data and supporting documentation
- (d) the necessary data have been submitted as originals, their certified copies or certified translation in Croatian,
- (e) the notifying party notified the concentration concerned to any other authority outside the territory of the Republic of Croatia, or in the case where the procedure under the previously submitted notification has been closed, whether the notifying party submitted the decision of the authority in question to the Agency.

(2) Where the notifying party for a justifiable reason and despite the efforts involved, fails to collect certain data or documents which have been stipulated to constitute the obligatory content of the notification under Article 5 paragraph (4) of this Regulation, it shall state so appropriately in the notification and explain:

- a) who from and when the notifying party tried to collect the data concerned;

b) the reasons why the relevant data could not be collected.

(3) In place of the missing data in the case described under paragraph (2) hereof, the Agency may request from the notifying party to supply electronically and in writing its own analyses and estimations of the situations relating to the missing data.

(4) Upon the request of the notifying party the Agency may by way of derogation in particularly justified cases dispense with the obligation to provide any particular information and documentation constituting the obligatory content of the standard merger notification (Form) as laid down in Article 5 paragraph (2) of this Regulation or the simplified merger notification (Short Form) as laid down in Article 5 paragraph (3) of this Regulation.

### *Receipt of the Notification*

#### Article 14

(1) The notification of a concentration laid down in Article 5 paragraph (4) of this Regulation shall be deemed a complete notification within the meaning of Article 20 paragraph (6) of the Act.

(2) Within the meaning of paragraph (1) hereof as soon as the Agency establishes that the notification may be deemed complete it shall issue a special receipt thereof to the notifying party.

(2) The receipt under paragraph (2) hereof shall particularly contain:

- a) the class number, the register number and the date of the receipt;
- b) the name of the notifying party, i.e. the authorised person;
- c) the names of the parties to the concentration;
- d) the date of the submittal of the notification to the Agency;
- e) the notice declaring the notification complete;
- f) the date when the notification was declared complete within the meaning of paragraph (1) hereof;
- g) the notice of the Agency instructing the notifying party that the implementation of the concentration duly notified is allowed only after the expiry of the time period referred to in Article 22 paragraph (1) of the Act, or after the receipt of the decision by which the concentration is deemed compatible or conditionally compatible within the meaning of Article 22 paragraph (7) items (1) and (2) of the Act, adding that as long as the Agency issues its decision the parties to the concentration must continue their operation on the relevant market as completely independent economic entities;;
- h) the notice informing the notifying party of the time limit that shall start within the meaning of Article 22 paragraph (1) of the Act on the date of the submittal of the notification, and of the fact that the concentration in question shall be deemed compatible, unless the Agency within 30 days following the submittal of the

- notification issues the procedural order on the initiation of the assessment proceedings of the concentration in question;
- i) the signature of the authorised person who examined the notification.

## VII CRITERIA FOR ASSESSMENT THE COMPATIBILITY OF CONCENTRATIONS

### *Appraisal of the Compatibility of a concentration in Phase I*

#### Article 15

(1) Where the Agency, on the basis of the complete notification of a concentration referred to in Article 5 paragraph (4) of this Regulation and other available data and information finds that a notified concentration may be reasonably assumed not to be incompatible with the relevant market as referred to in Article 16 of the Act, or that the concentration in question does not have appreciable effects on effective competition in the markets concerned, applying the criteria laid down under Article 16 of this Regulation, the Agency shall issue no procedural order on initiation of the proceeding under Article 39 of the Act given that the concentration concerned may be declared compatible in the first phase within the meaning of Article 22 paragraph (1) of the Act after the expiry of 30 days following the receipt of the complete notification.

(2) The Agency shall without delay publish the information on compatibility of a concentration in the first phase referred to in paragraph (1) hereof on its website. Upon a written request of a notifying party or any party to the concentration the Agency shall issue a statement on compatibility of a concentration within the meaning of Article 22 paragraph (2) of the Act.

### *Appraisal of the Compatibility of a concentration in Phase II*

#### Article 16

(1) After the Agency issues the procedural order on initiation of the proceeding for the assessment of compatibility of concentration it shall set the criteria for appraisal of the effects which would significantly impede effective competition in the relevant market, in particular as a result of the creation or strengthening of a dominant position.

(2) On the basis of a case-by-case method the Agency shall decide on applicable criteria as referred under paragraph (3) hereof, in other words, it shall select the criteria most appropriate to analyse the effects set out in paragraph (1) hereof.

(3) In the course of the assessment the Agency shall particularly take into account the following criteria:

- a) the structure of the relevant market; actual and potential competitors in the relevant market; supply and demand structure in the relevant market and their trends, prices; risks, technical, economic and legal conditions necessary to enter or to withdraw from the relevant market;
- b) market shares and market position, market and financial power, and business activities of the undertakings operating in the relevant market, possible changes in business operations and business plans of the parties to the concentration following the implementation of the concentration, alternative sources of supply for the buyers after the implementation of the concentration;
- c) distribution channels, transportation or distribution costs, specialization in production, innovation in technology, lowering of prices of goods and/or services, and other benefits for other undertakings and/or consumers directly deriving from the implementation of concentration.

### *Behavioural and Structural Remedies*

#### Article 17

(1) Where in the course of the concentration compatibility assessment procedure the Agency finds that the concentration may be declared compatible only subject to certain commitments it shall within the meaning of Article 22 paragraph (4) issue the Statement of Objections, referred to in Article 48 of the Act, and communicate it to the notifying party. The notifying party shall within a time period not exceeding one month propose adequate behavioural and/or structural remedies and conditions to remedy the anticompetitive effects of the concentration concerned. The commitments in question shall be proposed using the form provided in Appendix 4 of this Regulation which is a constituent part thereof.

(2) By way of derogation from Article 18 paragraph (1) of this Regulation, the time limit of three months in which the Agency must take its decision does not run from the day of the receipt of the Statement of Objections by the notifying party until the day on which the Agency is communicated the proposed commitments referred in paragraph (1) hereof by the notifying party.

(3) By way of derogation from paragraph (1) hereof the commitments may be proposed by the notifying party earlier in the course of the proceeding, even as early as in the notification of the concentration.

(4) In the case referred to in paragraph (1) hereof, the Agency may fully or partially accept the commitments proposed by the notifying party if it finds that these commitments are adequate to eliminate the anticompetitive effects of the concentration concerned. Where the Agency does not accept or only partially accepts the commitments proposed by the notifying party, it is empowered to order commitments and necessary behavioural and/or structural remedies, conditions and deadlines necessary to render the concentration compatible.

*Decision of the Agency*

Article 18

The Agency shall issue its decision on compatibility of a duly notified concentration in the sense of Article 22 paragraph (7) of the Act within the period of three months from the adoption of the procedural order on initiation of the proceeding under Article 16 paragraph (1) of this Regulation.

VI TRANSITIONAL AND FINAL PROVISIONS

*Cessation of the Validity of Regulation on Notification and Assessment of Concentrations*

Article 19

(1) This Regulation, as of the day of entry into force, replaces the Regulation on Notification and Assessment of Concentrations (Official Gazette, No 51/2004).

(2) Within the meaning of Article 76 paragraph (2) of the Act, the notifications of concentrations which have been brought in compliance with the provisions of the Regulation on Notification and Assessment of Concentrations (Official Gazette, No 51/2004), and which have been received by the Agency after the day on which the Act entered into force, but before this Regulation enters into force, need not be brought in compliance with this Regulation.

(3) All notifications which will be submitted to the Agency after this Regulation enters into force shall be brought fully in compliance with this Regulation.

*Entry into Force*

Article 20

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

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Zagreb, 17 March 2011

Prime Minister  
Jadranka Kosor

## Appendix 1

### STANDARD NOTIFICATION FORM

#### 1. Description of the concentration

##### 1.1. Provide an executive summary of the concentration, specifying the following:

the parties to the concentration, the nature of the concentration (for example, merger, acquisition of direct or indirect control and decisive interest over one or more undertakings or a part or parts of an undertaking or undertakings, or creation of a joint venture), the areas of activity of the notifying parties, the markets on which the concentration will have an impact (including particularly the main affected markets), and the strategic and economic rationale for the concentration.

1.2. For the purpose the request for information provide a summary (up to two A4 pages) of the information provided under Section 1.1. It is intended that this summary will be published on the Agency's website. The summary must be drafted so that it contains no confidential information or business secrets.

#### 2. Information about the parties to the concentration

##### 2.1. Information on notifying party

Give details of:

2.1.1. name and address of the notifying party;

2.1.2. nature of the business of the notifying party;

2.1.3. name, address, telephone number, fax number and e-mail address of, and position held by, the appropriate contact person; and

2.1.4. an address for service of the notifying party to which documents and, in particular, Agency decisions may be delivered, where this address is different from the one stated in item 2.2.1. and/or 2.2.3. In this case the name, telephone number and e-mail address of a person at this address who is authorised to accept service must be provided.

##### 2.2. Information on other parties to the concentration

For each party to the concentration (except the notifying party or parties) give details of:

2.2.1. name and address of undertaking – party to the concentration;

2.2.2. nature of undertaking's – party's to the concentration business;

2.2.3. name, address, telephone number, fax number and e-mail address of, and position held by, the appropriate contact person; and

2.2.4. an address for service of the party (or each of the parties) to which documents and, in particular, Agency decisions may be delivered, where this address is different from the one stated in item 2.2.1. and/or 2.2.3. In this case the name, e-mail address and telephone number and fax number of a person at this address who is authorised to accept service must be provided.

### 2.3. Appointment of representatives

Where notifications are signed by representatives of undertakings (parties to the concentration), such representatives must produce, together with the notification, a written proof that they are authorised to act. The written proof must contain the name and position of the persons granting such authority.

Provide the following contact details of any representatives who have been authorised to act for any of the parties to the concentration, indicating whom they represent:

2.3.1. name of the representative;

2.3.2. address the representative;

2.3.3. name, address, telephone number, fax number and e-mail address of person to be contacted and his/her position; and

2.3.4. an address of the representative for service of the party (or each of the parties) to which documents and, in particular, Agency decisions may be delivered, where this address is different from the one stated in item 2.3.2. and/or 2.1.3. In this case the name, e-mail address and telephone number and the fax number of a person at this address who is authorised to accept service must be provided.

2.4. Where the notifying party referred to in item 2.1., or the representative of the parties to the concentration referred to in item 2.3. authorise a third person as a representative (a lawyer or a lawyer's office) he/she shall submit the power of attorney and all necessary contact information of the authorized representative and correctly state the undertaking which he/she represents.

### 3. Details of the concentration

3.1. Describe the nature of the concentration being notified. In doing so state:

(a) whether the proposed concentration is a full legal merger, an acquisition of sole or joint control, a full-function joint venture within the meaning of Article 15 paragraph (3) or a contract or other means of conferring direct or indirect control;

(b) whether the whole or parts of parties to the concentration are subject to the concentration;

(c) a brief explanation of the economic and financial structure of the concentration;

(d) whether any public offer for the securities of one party by the acquiring party has the support of the supervisory boards or management or other bodies legally representing the undertaking over which the control is acquired (this is necessary to indicate a possible hostile bid);

(e) the proposed or expected date of any major events designed to bring about the completion of the concentration;

(f) the proposed structure of ownership and control after the completion of the concentration;

(g) any financial or other support received from whatever source (including public authorities) and amount of this support; and

(h) the economic sectors involved in the concentration and the position of the parties to the concentration in these sectors.

3.2. State the value of the transaction (the purchase price or the value of all the assets involved, as the case may be);

3.3. For each of the undertakings concerned by the concentration provide the following data for the last financial year:

3.3.1. world-wide turnover (consolidated aggregate annual turnover of all the undertakings - parties to the concentration, realized by the sale of goods and/or services in the global market);

3.3.2. consolidated aggregate annual turnover of all the undertakings - parties to the concentration, realized by the sale of goods and/or services in the territory of the Republic of Croatia (hereinafter: aggregate turnover);

3.3.2.1. In the case where the concentration involves merger or acquisition of a part or parts of one or more undertakings regardless of their legal nature, only the turnover of the parts of undertakings involved in the concentration shall be calculated.

3.4. The calculation of the aggregate annual turnover referred to in item 3.3. shall be carried out within the meaning of Article 17 paragraphs (2), (3) and (4) of the Act and Article 4 paragraph (2) of this Regulation.

3.5. Describe the economic rationale of the concentration.

#### 4. Ownership and control

4.1. For each of the parties to the concentration provide a list of all undertakings under its control (controlled undertakings), as well as the list of undertakings which have control over the undertakings concerned (controlled or connected undertakings).

This list must include:

4.1.1. all undertakings controlled by other undertaking regardless of the market on which they are active;

4.1.2. all undertakings controlled by other undertaking which are active in any affected market that are controlled, directly or indirectly:

(a) by the parties to the concentration;

(b) by connected undertakings parties to the concentration identified in 4.1.

For each entry listed above, the nature and means of control should be specified.

The information sought in this section may be illustrated by the use of organisation charts or diagrams to show the structure of ownership and control of the undertakings.

4.2. With respect to the parties to the concentration and their connected undertakings identified in response to item 4.1, provide:

4.2.1. a list of all other undertakings which are active in affected markets (affected markets are relevant markets on which the concentration has its effects), in which the parties to the concentration and their connected undertakings, hold individually or collectively 10 % or more of the voting rights, issued share capital or other securities. For each undertaking identify the equity holder and state the percentage held;

4.2.2. for each undertaking party to the concentration a list of the members of their boards of management and of supervisory boards who are also members of the boards of management or of the supervisory boards of any other undertaking which is active in affected markets; for each member of the management or supervisory board, identify the name of the other undertaking and the positions held;

4.2.3. details of other concentrations implemented during the last three years by the parties to the concentration and their connected undertakings identified in item 4.1 of this section active in affected markets as defined in Section 6.

Information provided here may be illustrated by the use of organization charts or diagrams to give a better understanding.

## 5. Supporting documentation

### 5.1. The notifying party must provide the following:

(a) copies of the final or most recent versions of all documents bringing about the concentration, whether by agreement (contract) between the parties to the concentration, or any other manner of acquisition of a controlling interest, directly or indirectly, in the undertaking concerned or a part thereof on a permanent basis, or a public bid;

(b) in a public bid, a copy of the offer document; if it is unavailable at the time of notification of a concentration, it should be submitted as soon as possible and not later than when it is posted to shareholders;

(c) copies of the most recent annual reports and accounts of all the parties to the concentration; and

(d) copies of all analyses, reports, studies, surveys, and any comparable documents prepared by or for any member(s) of the board of directors, or the supervisory board, or the other person(s) exercising similar functions (or to whom such functions have been delegated or entrusted), or the shareholders' meeting, for the purpose of assessing or analysing the concentration with respect to market shares, competitive conditions, competitors (actual and potential), the rationale of the concentration, potential for sales growth or expansion into other product or geographic markets, and/or general market conditions.

For each of these documents, indicate (if not contained in the document itself) the date of preparation, the name and title of each individual who prepared each such document.

5.2. Where the concentration referred to in item 5.1. is in the media sector in which rules on electronic media apply, the notifying party shall submit to the Agency as a part of the supporting documentation the decision adopted by the Agency For Electronic Media rendering the concentration concerned compatible within the meaning of the Act on Electronic Media.

## 6. Market definitions

6.1. Relevant market is defined as a market of certain goods and/or services which are the subject of the business operations performed by an undertaking in a specific geographic territory. The definition of relevant market is a tool to identify and define goods and/or services (hereinafter: products) which are the subject of competition, as well as to set the geographic area in which the undertakings concerned compete. Relevant market is defined in each particular case pursuant to the Regulation on the definition of relevant market.

The notifying party must provide the data requested having regard to the following definitions:

#### 6.1.1. Relevant product markets:

A relevant product market comprises all those products which are regarded as interchangeable or substitutable by the consumer, by reason of the products' characteristics, their prices and their intended use. A relevant product market may in some cases be composed of one product or a number of individual products, depending on the market structure and consumer preferences. If this is the case, the products must present largely identical physical or technical characteristics and must be regarded as substitutes or interchangeable.

#### 6.1.2. Relevant geographic markets:

The relevant geographic market comprises the area in which the undertakings concerned are involved in the supply and demand of relevant products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring geographic areas.

Factors relevant to the assessment of the relevant geographic market include inter alia the nature and characteristics of the products concerned, the existence of entry barriers, consumer preferences, appreciable differences in the undertakings' market shares between neighbouring geographic areas or substantial price differences thereon.

#### 6.2. Affected markets:

Affected markets consist of relevant product markets where:

(a) two or more of the parties to the concentration are engaged in business activities in the same product market and where the concentration will lead to a combined market share of 15 % or more. These are horizontal relationships;

(b) one or more of the parties to the concentration are engaged in business activities in a product market, which is upstream or downstream (at the production and/or distribution level) of a product market in which any other party or parties to the concentration are engaged, and any of their individual or combined market shares at either level is 25 % or more, regardless of whether there is or is not any existing supplier/customer relationship between the parties to the concentration. These are vertical relationships.

(c) in the sense of item 6.2. (b) if a party to the concentration holds a market share larger than 25 % in a market that is upstream (at the production and/or distribution level) to a product market in which the other party or parties to the concentration are active, then both the upstream and the downstream markets are affected markets (markets affected by the concentration).

In addition, state and explain the parties' view regarding the scope of the relevant geographic market within the meaning of 6.1.2. that applies in relation to each affected market identified above in the territory of the Republic of Croatia.

### 6.3. Other markets in which the notified concentration may have a significant impact

Other markets in which the notified concentration may have a significant impact, excluding the markets defined in items 6.1.1. and 6.2. are for example, where:

(a) any of the parties to the concentration has a market share larger than 25 % and any other party to the concentration is a potential competitor into that market. A party to the concentration may be considered a potential competitor, in particular, where it has plans to enter a market, or has developed or pursued such plans in the past two years;

(b) any of the parties to the concentration has a market share larger than 25 % and any other party to the concentration holds important intellectual property rights for that market;

(c) any of the parties to the concentration is present in a product market, which is a neighbouring market closely related to a product market in which any other party to the concentration is engaged, and the individual or combined market shares of the parties in any one of these markets is 25 % or more. Product markets are closely related neighbouring markets when the products are complementary to each other or when they belong to a range of products that is generally purchased by the same set of customers for the same end use.

### 7. Information on affected markets

For each affected relevant product market referred to in item 6.2, for each of the last three financial years, for the territory of the Republic of Croatia, and where in the opinion of the notifying party, the relevant geographic market may be considered different;

provide the following:

7.1. an estimate of the total size of the market in terms of sales value (in HRK or in HRK equivalent) and volume (units). Value and volume of the market must reflect output less exports plus imports for the geographic areas under consideration. If readily available, please provide disaggregated information on imports and exports by country of origin and destination, respectively.

Indicate the basis and sources for the calculations and provide documents where available to confirm these calculations;

7.2. the sales in value and volume, as well as an estimate of the market shares, of each of the parties to the concentration;

7.3. an estimate of the market share in value (and where appropriate, volume) of all competitors (including importers) having at least 5 % of the geographic market under

consideration. On this basis, provide an estimate of the HHI index pre- and post-merger, and the difference between the two. Indicate the proportion of market shares used as a basis to calculate the HHI. Identify the sources used to calculate these market shares and provide documents where available to confirm the calculation.

HHI stands for Herfindahl-Hirschman Index, a measure of market concentration. The HHI is calculated by summing the squares of the individual market shares of all the firms in the market. The post-merger HHI is calculated on the working assumption that the individual market shares of the companies do not change. Although it is best to include all firms in the calculation, lack of information about very small firms may not be important because such firms do not affect the HHI significantly. Before the merger, the market shares of the merging firms contribute to the HHI by their squares individually:  $(a)^2 + (b)^2$ . After the merger, the contribution is the square of their sum:  $(a + b)^2$ , which equals  $(a)^2 + (b)^2 + 2ab$ . The increase in the HHI, i.e. the difference between the pre-merger and the post-merger HHI is therefore represented by  $2ab$ .

7.4. the name, address, telephone number, fax number and e-mail address of the contact person for the competitors identified under 7.3;

7.5. the manner in which the parties to the concentration price and sell the products; for example, whether they manufacture and price alone, or sell through distribution facilities;

7.6. the nature and extent of vertical integration of each of the parties to the concentration compared with their largest competitors;

7.7. an estimate of the total value and volume and source of imports and identify:

(a) the proportion of such imports that are derived from parties to the concentration and their connected undertakings;

(b) an estimate of the extent to which any quotas, tariffs or non-tariff barriers to trade, affect these imports; and

(c) an estimate of the extent to which transportation and other costs affect these imports;

7.8. the extent to which trade within the territory of the Republic of Croatia is affected by:

(a) transportation and other costs; and

(b) other non-tariff barriers to trade;

7.8. if the Agency deems necessary for the appraisal of a concentration it may request the notifying party to communicate the data referred to in item 7. also concerning other affected markets under item 6.3.

## 8. General conditions in affected markets

8.1. Identify the five largest independent suppliers to the parties to the concentration and their individual shares of purchases from each of these suppliers. Provide the name, address, telephone number, fax number and e-mail address of the contact person for each of these suppliers.

8.2. If the Agency deems necessary for the appraisal of a concentration it may request the notifying party to communicate the data referred to in item 8.1. also concerning other affected markets under item 6.3.

### 8.3. Structure of supply in affected markets

8.3.1. Explain the distribution channels and service networks that exist in the affected markets. In so doing, take account of the following:

(a) the distribution systems prevailing in the market and their importance. To what extent is distribution performed by third parties and/or undertakings under the control of the parties to the concentration and their connected undertakings referred to under item 4.1.;

(b) the service networks (for example, maintenance and repair) prevailing and their importance in these markets. To what extent are such services performed by third parties and/or undertakings under the control of the parties to the concentration and their connected undertakings referred to in item 4.1.;

8.3.2. Specify whether any of the parties to the concentration, or any of the competitors, have "pipeline products", products likely to be brought to market in the near term, or plans to expand (or contract) production or sales capacity. If so, provide an estimate of the projected sales and market shares of the parties to the concentration over the next three to five years.

8.3.3. If you consider any other supply-side considerations to be relevant, they should be specified.

8.3.4. If the Agency deems necessary for the appraisal of a concentration it may request the notifying party to communicate the data referred to in item 8.3. also concerning other affected markets under item 6.3.

### 8.4. Structure of demand in affected markets

8.4.1. Identify the five largest independent customers of the parties to the concentration in each affected market and their individual share of total sales for such products accounted for by each of those customers. Provide the name, address, telephone number, fax number and e-mail address of the contact person for each of these customers.

8.4.2. Explain the structure of demand in terms of:

(a) the phases of the markets in terms of, for example, take-off, expansion, maturity and decline, and a forecast of the growth rate of demand;

(b) the importance of customer preferences, for example in terms of brand loyalty, the provision of pre- and after-sales services, the provision of a full range of products, or network effects;

(c) the role of product differentiation in terms of attributes or quality, and the extent to which the products of the parties to the concentration are close substitutes or interchangeable products;

(d) the role of switching costs (in terms of time and expense) for customers when changing from one supplier to another;

(e) the degree of concentration or dispersion of customers;

(f) segmentation of customers into different groups with a description of the "typical customer" of each group;

(g) the importance of exclusive distribution contracts and other types of long-term contracts; and

(h) the extent to which public authorities, government agencies or State enterprises are important participants as a source of demand.

8.4.3. If the Agency deems necessary for the appraisal of a concentration it may request the notifying party to communicate the data referred to in item 8.4. also concerning other affected markets under item 6.3.

## 8.5. Market entry

8.5.1. Provide if any of the parties to the concentration entered an affected market in the past five years, and if the answer is affirmative, provide an analysis of the barriers to entry encountered.

In the opinion of the notifying party, over the last five years, has there been any significant entry into any affected markets? If so, identify such entrants and provide the name, address, telephone number, fax number and e-mail address of the contact person and an estimate of the current market share of each such entrant, if appropriate.

8.5.2. In the opinion of the notifying party, are there undertakings that are likely to enter the affected market? If so, identify such entrants and provide the name, address, telephone number, fax number and e-mail address of the contact person. Explain why such entry is likely and provide an estimate of the time within which such entry is likely to occur.

8.5.3. Describe the various factors influencing entry into affected markets, examining entry from both a geographical and product viewpoint. In so doing, take account of the following where appropriate:

(a) the total costs of entry (R&D, production, establishing distribution systems, promotion, advertising, servicing, and so forth) on a scale equivalent to a significant viable competitor, indicating the market share of such a competitor;

(b) any legal or regulatory barriers to entry, such as government authorization or standard setting in any form, as well as barriers resulting from product certification procedures, or the need to have a proven track record;

(c) any restrictions created by the existence of patents, know-how and other intellectual property rights in these markets and any restrictions created by licensing such rights;

(d) the extent to which each of the parties to the concentration are holders, licensees or licensors of patents, know-how and other rights in the relevant markets;

(e) the importance of economies of scale for the production or distribution of products in the affected markets; and

(f) access to sources of supply, such as availability of raw materials and necessary infrastructure.

8.5.4. If the Agency deems it necessary for the appraisal of a concentration it may request the notifying party to communicate the data referred to in item 8.5. also concerning other affected markets under item 6.3.

## 8.6. Research and development

8.6.1. Give an account of the importance of research and development in the ability of a firm operating the relevant market(s) to compete in the long term. Explain the nature of the research and development in affected markets carried out by the parties to the concentration.

In so doing, take account of the following, where appropriate:

(a) trends and intensities of research and development in these markets and for the parties to the concentration. Research and development intensity is defined as research development expenditure as a proportion of turnover of the undertaking;

(b) the course of technological development for these markets over an appropriate time period (including developments in products, production processes, distribution systems, and so on);

(c) the major innovations that have been made in these markets and the undertakings responsible for these innovations; and

(d) the cycle of innovation in these markets and where the parties to the concentration are in this cycle of innovation.

8.6.2. If the Agency deems it necessary for the appraisal of a concentration it may request the notifying party to communicate the data referred to in item 8.6. also concerning other affected markets under item 6.3.

## 8.7. Cooperative Agreements

8.7.1. To what extent do cooperative agreements (horizontal, vertical, or other) exist in the affected markets?

8.7.2. Give details of the most important cooperative agreements engaged in by the parties to the concentration in the affected markets, such as research and development, licensing, joint production, specialization, distribution, long term supply and exchange of information agreements and, where deemed useful, provide a copy of these agreements to the Agency.

8.7.3. If the Agency deems it necessary for the appraisal of a concentration it may request the notifying party to communicate the data referred to in item 8.7. also concerning other affected markets under item 6.3.

## 8.8. Trade associations

With respect to the trade associations in the affected markets:

(a) identify those of which the parties to the concentration are members; and

(b) identify the most important trade associations to which the customers and suppliers of the parties to the concentration belong.

Provide the name, address, telephone number, fax number and e-mail address of the appropriate contact person for all trade associations listed above.

9. Overall market context and efficiencies (data under this section are optional and not considered obligatory)

9.1. It should be noted that submitting information in response to this section is voluntary. A party to the concentration is not required to offer any justification for not completing this section. Not providing the requested information on efficiencies at the notification stage does not preclude providing the information at a later stage. Hence, the Agency may in the later course of the assessment proceeding relating to the proposed concentration within the meaning of Article 21 paragraph (4) of the Act request the data concerned from the notifying party, where it deems necessary that these data are important for the verification of the efficiency claim of the concentration concerned.

9.2. Describe how the proposed concentration is likely to affect the interests of other undertakings and ultimate consumers and the development of technical and economic progress.

9.3. Provide your estimations whether efficiency gains generated by the concentration are likely to enhance the ability and incentive of the new entity to act pro-competitively for the benefit of consumers. Please provide a description of, and supporting documents relating to, each efficiency (including cost savings, new product introductions, and service or product improvements) that the parties anticipate will result from the proposed concentration relating to any relevant product.

For each claimed efficiency, provide:

(a) a detailed explanation of how the proposed concentration would allow the new entity to achieve the efficiency. Specify the steps that the parties anticipate taking to achieve the efficiency, the risks involved in achieving the efficiency, and the time and costs required to achieve it;

(b) where reasonably possible, a quantification of the efficiency and a detailed explanation of how the quantification was calculated. Where relevant, also provide an estimate of the significance of efficiencies related to new product introductions or quality improvements. For efficiencies that involve cost savings, state separately the one-time fixed cost savings, recurring fixed cost savings, and variable cost savings (per unit and per year);

(c) the extent to which customers are likely to benefit from the efficiency and a detailed explanation of how this conclusion is arrived at; and

(d) the reason why the party or parties to the concentration could not achieve the efficiency to a similar extent by means other than through the concentration proposed, and in a manner that is not likely to raise competition concerns.

10. Cooperative effects of a joint venture

10. 1. For the purpose of Article 15 paragraphs (3) and (6) of the Act, where a joint venture is created, answer the following question:

Do two or more undertakings who are at the same time creators of a joint venture, retain to a significant extent activities in the same market as the joint venture or in a market which is upstream or downstream from that of the joint venture or in a neighbouring market closely related to this market?

10.1.1. If the answer is affirmative, please indicate for each of the markets referred to here:

- (a) the turnover of each undertaking creator of a joint venture in the preceding financial year;
- (b) the economic significance of the activities of the joint venture in relation to this turnover;
- (c) the market share of each of the parties creators of a joint venture

10.1.2. If the answer is negative, please justify your answer.

10.2. If the answer to 10.1.1. is affirmative and in your view the creation of the joint venture does not lead to coordination between independent undertakings that restricts competition within the meaning of Article 8 paragraph (1) of the Act, give your reasons.

10.3. Without prejudice to the answers to 10.1. and 10.2. and in order to ensure that a complete assessment of the concentration that results from the joint venture can be made, please explain how the criteria of Article 8 paragraph (3) of the Act apply. Under Article 8 paragraph (3) of the Act, the provisions of Article 8 paragraph (1) of the Act may be declared inapplicable (exempted from the general ban) if the operation cumulatively fulfils, as long as they are in force, the following conditions:

- (a) contributes to improving the production or distribution of goods and/or services, or to promoting technical or economic progress;
- (b) allows consumers a fair share of the resulting benefit;
- (c) does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives; and
- (d) does not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the goods and/or services in question.

## 11. Declaration

The notifying party shall attach the following declaration to the prior notification of a concentration:

The notifying party declares that, to the best of their knowledge and belief, the information given in this notification is true, correct, and complete, that true and complete copies of documents required by the standard notification form have been

supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

Place:

Date:

Signature of the notifying party:

Name and position of the notifying party:

On behalf of (provide all names of the parties to the concentration):

## Appendix 2

### SIMPLIFIED MERGER NOTIFICATION (SHORT FORM)

#### 1. Description of the concentration

##### 1.1. Provide an executive summary of the concentration, specifying:

the parties to the concentration, the nature of the concentration (for example, merger, acquisition, acquisition of direct or indirect control or decisive interest in one or more undertakings or a part or parts of other undertakings, creation of a joint venture etc.), the areas of activity of the parties to the concentration, all markets on which the concentration will have an impact (including the main reportable markets), and the strategic and economic rationale for the concentration.

1.2. Provide a summary (up to 2 pages of A4 format) of the information provided under item 1.1. It is intended that this summary will be published on the Agency's website at the date of notification. The summary must be drafted so that it contains no confidential information or business secrets.

#### 2. Information about the parties to the concentration

##### 2.1. Information on notifying party

Give details of:

2.1.1. name and address of the notifying party;

2.1.2. nature of the business of the notifying party;

2.1.3. name, address, telephone number, fax number and e-mail address of, and position held by, the appropriate contact person; and

2.1.4. an address for service of the notifying party to which documents and, in particular, Agency's decisions may be delivered if this address is different from the address stated under item 2.1.1. and/or 2.1.3. In such a case the name, e-mail address and telephone number of a person at this address who is authorised to accept service must be provided.

##### 2.2. Information on other parties to the concentration

2.2.1. name and address of undertakings – parties to the concentration;

2.2.2. nature of undertaking's – party's to the concentration business;

2.2.3. name, address, telephone number, fax number and e-mail address of, and position held by, the appropriate contact person; and

2.2.4. an address for service of each of the parties to the concentration to which documents and, in particular, Agency's decisions may be delivered if this address is different from the address stated in item 2.2.1. and/or item 2.2.3. In such a case the name, e-mail address and telephone number of a person at this address who is authorised to accept service must be provided.

### 2.3. Appointment of representatives

Where notifications are signed by representatives of undertakings – parties to the concentration, such representatives must produce written proof that they are authorised to act on behalf of other parties to the concentration. The written proof must contain the name and position of the persons granting such authority.

Provide the following contact details of information of any representatives who have been authorised to act for any of the parties to the concentration, indicating whom they represent:

2.3.1. name of representative;

2.3.2. address of representative;

2.3.3. name, address, telephone number, fax number and e-mail address of person to be contacted and the position of that person; and

2.3.4. an address of the representative for service of the party (or each of the parties) to which documents and, in particular, Agency decisions may be delivered, where this address is different from the one stated in item 2.3.2. and/or 2.1.3. In this case the name, e-mail address and telephone number and the fax number of a person at this address who is authorised to accept service must be provided.

2.4. Where the notifying party referred to in item 2.1., or the representative of the parties to the concentration referred to in item 2.3. authorise a third person as a representative (a lawyer or a lawyer's office) he/she shall submit the power of attorney and all necessary contact information of the authorized representative and correctly state the undertaking which he/she represents.

### 3. Details of the concentration

3.1. Describe the nature of the concentration being notified. In doing so state:

(a) whether the proposed concentration is a full legal merger, an acquisition of sole or joint control, a full-function joint venture within the meaning of Article 15 paragraph (3) of the Act or a contract or other means of conferring direct or indirect control;

- (b) whether the whole or parts of parties are subject to the concentration;
- (c) a brief explanation of the economic and financial structure of the concentration;
- (d) whether any public offer for the securities of one party by the acquiring party has the support of the supervisory boards or management or other bodies legally representing the undertaking over which the control is acquired (this is necessary to indicate a possible hostile bid);
- (e) the proposed or expected date of any major events designed to bring about the completion of the concentration;
- (f) the proposed structure of ownership and control after the completion of the concentration;
- (g) any financial or other support received from whatever source (including public authorities) and amount of this support; and
- (h) the economic sectors involved in the concentration and the position of the parties to the concentration in these sectors.

3.2. State the value of the transaction (the purchase price or the value of all the assets involved, as the case may be);

3.3. For each of the undertakings concerned by the concentration provide the following data for the last financial year:

3.3.1. world-wide turnover (consolidated aggregate annual turnover of all the undertakings - parties to the concentration, realized by the sale of goods and/or services in the global market);

3.3.2. consolidated aggregate annual turnover of all the undertakings - parties to the concentration, realized by the sale of goods and/or services in the territory of the Republic of Croatia (hereinafter: aggregate turnover);

3.3.2.1. In the case where the concentration involves merger or acquisition of a part or parts of one or more undertakings regardless of their legal nature, only the turnover of the parts of undertakings involved in the concentration shall be calculated.

3.4. The calculation of the aggregate annual turnover referred to in item 3.3. shall be carried out within the meaning of Article 17 paragraphs (2), (3) and (4) of the Act and Article 4 paragraph (2) of this Regulation.

3.5. Describe the economic rationale of the concentration.

#### 4. Ownership and control

4.1. For each of the parties to the concentration provide a list of all undertakings under its control (controlled undertakings), as well as the list of undertakings which have control over the undertakings concerned (controlled or connected undertakings).

This list must include:

4.1.1. all undertakings controlled by other undertaking regardless of the market on which they are active;

4.1.2. all undertakings controlled by other undertaking which are active in any affected market that are controlled, directly or indirectly:

(a) by the parties to the concentration;

(b) by connected undertakings parties to the concentration identified in 4.1.

For each entry listed above, the nature and means of control should be specified.

The information sought in this section may be illustrated by the use of organisation charts or diagrams to show the structure of ownership and control of the undertakings.

## 5. Supporting documentation

5.1. The notifying party must provide the following:

(a) copies of the final or most recent versions of all documents bringing about the concentration, whether by agreement (contract) between the parties to the concentration, or any other manner of acquisition of a controlling interest, directly or indirectly, in the undertaking concerned or a part thereof on a permanent basis, or a public bid;

(b) copies of the most recent annual reports and accounts of all the parties to the concentration.

5.2. Where the concentration referred to in item 5.1. is in the media sector in which rules on electronic media apply, the notifying party shall submit to the Agency as a part of the supporting documentation the decision adopted by the Agency For Electronic Media rendering the concentration concerned compatible within the meaning of the Act on Electronic Media.

## 6. Market definitions

6.1. Relevant market is defined as a market of certain goods and/or services which are the subject of the business operations performed by an undertaking in a specific geographic territory. The definition of relevant market is a tool to identify and define goods and/or services (hereinafter: products) which are the subject of competition, as well as to set the geographic area in which the undertakings concerned compete. Relevant market is

defined in each particular case pursuant to the Regulation on the definition of relevant market.

The notifying party must provide the data requested having regard to the following definitions:

#### 6.1.1. Relevant product markets:

A relevant product market comprises all those products which are regarded as interchangeable or substitutable by the consumer, by reason of the products' characteristics, their prices and their intended use. A relevant product market may in some cases be composed of one product or a number of individual products, depending on the market structure and consumer preferences. If this is the case, the products must present largely identical physical or technical characteristics and must be regarded as substitutes or interchangeable.

#### 6.1.2. Relevant geographic markets:

The relevant geographic market comprises the area in which the undertakings concerned are involved in the supply and demand of relevant products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring geographic areas.

Factors relevant to the assessment of the relevant geographic market include inter alia the nature and characteristics of the products concerned, the existence of entry barriers, consumer preferences, appreciable differences in the undertakings' market shares between neighbouring geographic areas or substantial price differences thereon.

#### 6.2. Affected markets:

Affected markets consist of relevant product markets where:

(a) two or more of the parties to the concentration are engaged in business activities in the same product market. These are horizontal relationships;

(b) one or more of the parties to the concentration are engaged in business activities in a product market, which is upstream or downstream (at the production and/or distribution level) of a product market in which any other party or parties to the concentration are engaged, regardless of whether there is or is not any existing supplier/customer relationship between the parties to the concentration. These are vertical relationships.

In addition, state and explain the parties' view regarding the scope of the relevant geographic market within the meaning of 6.1.2. that applies in relation to each affected market identified above in the territory of the Republic of Croatia.

#### 7. Information on affected markets

For each affected market, for each of the last three financial years, for the territory of the Republic of Croatia, and where in the opinion of the notifying party, the relevant geographic market may be considered different;

provide the following:

7.1. an estimate of the total size of the market in terms of sales value (in HRK or in HRK equivalent) and volume (units). Value and volume of the market must reflect output less exports plus imports for the geographic areas under consideration. Indicate the basis and sources for the calculations and provide documents where available to confirm these calculations;

7.2. the sales in value and volume, as well as an estimate of the market shares, of each of the parties to the concentration. Indicate if there have been significant changes to the sales and market shares for the last three financial years; and

7.3. an estimate of the market share in value (and where appropriate, volume) of the three largest competitors (indicating the basis for the estimates). Provide the name, address, telephone number, fax number and e-mail address of the contact person for these competitors.

## 8. Cooperative effects of a joint venture

8. 1. For the purpose of Article 15 paragraphs (3) and (6) of the Act, where a joint venture is created, answer the following question:

Do two or more undertakings who are at the same time creators of a joint venture, retain to a significant extent activities in the same market as the joint venture or in a market which is upstream or downstream from that of the joint venture or in a neighbouring market closely related to this market?

8.1.1. If the answer is affirmative, please indicate for each of the markets referred to here:

(a) the aggregate turnover of each undertaking creator of a joint venture in the preceding financial year;

(b) the economic significance of the activities of the joint venture in relation to this aggregate turnover;

(c) the market share of each of the parties creators of a joint venture.

8.1.2. If the answer is negative, please justify your answer.

8.2. If the answer to 8.1.1. is affirmative and in your view the creation of the joint venture does not lead to coordination between independent undertakings that restricts competition within the meaning of Article 8 paragraph (1) of the Act, give your reasons.

8.3. Without prejudice to the answers to 8.1. and 8.2. and in order to ensure that a complete assessment of the concentration that results from the joint venture can be made, please explain how the criteria of Article 8 paragraph (3) of the Act apply. Under Article 8 paragraph (3) of the Act, the provisions of Article 8 paragraph (1) of the Act may be declared inapplicable (exempted from the general ban) if the operation cumulatively fulfils, as long as they are in force, the following conditions:

(a) contributes to improving the production or distribution of goods and/or services, or to promoting technical or economic progress;

(b) allows consumers a fair share of the resulting benefit;

(c) does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives; and

(d) does not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the goods and/or services in question.

## 9. Declaration

The notifying party shall attach the following declaration to the prior notification of a concentration:

The notifying party declares that, to the best of their knowledge and belief, the information given in this notification is true, correct, and complete, that true and complete copies of documents required by the standard notification form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

Place:

Date:

Signature of the notifying party:

Name and position of the notifying party:

On behalf of (provide all names of the parties to the concentration):

## Appendix 3

### FORM ON ACQUISITION OF SECURITIES OR HOLDING OF SECURITIES INTENDED FOR RESALE

This Notice on acquisition of securities or holding of securities intended for resale by credit institutions or other financial institutions or investment funds or insurance companies shall be communicated to the Competition Agency in the cases provided under Article 15 paragraph (5) item (1) of the Act.

The above mentioned Notice shall include:

1. name and address of the company;
2. name, address and nature of business of the undertaking, or name and address of the person on behalf of which the notifying party acquired the securities;
3. name, address and nature of the business of the undertaking whose securities have been acquired by the notifying party;
4. the shareholding structure, i.e. the structure of business assets of undertakings whose securities have been acquired by the notifying party (post-acquisition);
5. time period in which the notifying party intends to sell the acquired securities;
6. signature of the person responsible for correctness and authenticity of the information stated in the Notice;
7. date and place of the Notice submittal.

The following documentation shall be attached to the Notice:

1. declaration of the notifying party that the acquired securities are held on a temporary basis with a view to reselling them;
2. declaration of the notifying party that the acquired securities will not be used so as to influence the competitive behaviour of the undertakings whose securities it has acquired;
3. declaration of the notifying party that the voting rights in respect of the securities shall be exercised only for the purpose of reselling the whole undertaking whose securities it has acquired or with the view to selling a part of the undertaking concerned (in the case it exercises the voting rights);
4. declaration of the notifying party that the rights deriving from the acquired securities will not be used in any manner that it would lead to prevention, restriction or distortion of competition, nor it shall take any actions to that end.

## Appendix 4

### **REMEDIES FORM FOR SUBMITTAL OF COMMITMENTS (BEHAVIOURAL AND STRUCTURAL REMEDIES AIMED AT PREVENTING A SIGNIFICANT IMPEDIMENT TO EFFECTIVE COMPETITION)**

This form specifies the information and documents to be submitted by the undertakings concerned at the same time as offering commitments with the view to eliminating a significant impediment of a concentration to effective competition to the Croatian Competition Agency pursuant to Article 22 paragraphs (4) and (5) of the Act.

The information proposing behavioural and structural remedies aimed at preventing a significant impediment to effective competition of a concentration shall include:

#### 1. Description of the commitment

1.1. Provide detailed information on the object of the commitments offered, and the conditions for their implementation.

1.2. Where the commitments offered consist in the divestiture of a business, Section 4 provides for the specific information required.

#### 2. Suitability to remove competition concerns

2.1. Provide information, documents and notices showing the suitability of the commitments offered to remove the significant impediment of effective competition identified by the Agency.

#### 3. Summary of the commitments

3.1. Provide a non-confidential summary of the nature and scope of the commitments offered and why, in your view, they are suitable to remove any significant impediment to effective competition. The Agency may use this summary for the market test of the commitments in the request for information offered with third parties under Article 21 paragraph 5 of the Act.

#### 4. Information on a business to be divested

Where the commitments offered consist in the divestiture of a business, provide the following information and documents:

##### 4.1. General information on the business to be divested

4.1.1. Describe the business to be divested generally, including the entities belonging to it, their registered place of business and place of management, other locations for

production or provisions of services, the general organisational structure and any other relevant information relating to the administrative structure of the business to be divested.

4.1.2. State whether there are and describe any legal obstacles for the transfer of the business to be divested or the assets, including third party rights and administrative approvals required.

4.1.3. List and describe the products manufactured or services provided, in particular their technical and other characteristics, the brands involved, the turnover generated with each of these products or services, and any innovations or new products or services planned.

4.1.4. Describe the level on which the essential functions of the business to be divested are operated if they are not operated on the level of the business to be divested itself, including such functions as research and development, production, marketing and sales, logistics, relations with customers, relations with suppliers, IT systems, etc. The description should contain the role performed by those other levels, the relations with the business to be divested and the resources (personnel, assets, financial resources, etc.) involved in the function.

4.1.5. Describe in detail the links between the business to be divested and other undertakings controlled by the notifying party (irrespective of the direction of the link), such as:

- supply, production, distribution, service or other contracts,
- shared tangible or intangible assets,
- shared or seconded personnel,
- shared IT systems or other systems, and
- shared customers.

4.1.6. Describe in general terms all relevant tangible and intangible assets used and/or owned by the business to be divested, including, in any case, IP rights and brands.

4.1.7. Submit an organisational chart identifying the number of personnel currently working in each of the functions of the business to be divested and a list of those employees who are indispensable for the operation of the business to be divested, describing their functions.

4.1.8. Describe the customers of the business to be divested, including a list of customers, a description of the corresponding records available, and provide the total turnover generated by the business to be divested with each of these customers (in absolute amounts and as percentage of the total turnover of business to be divested).

4.1.9. Provide financial data for the business to be divested, including the turnover and the EBITDA (earnings before interest, taxes, depreciation, and amortization) achieved in the last two years, and the forecast for the next two years.

4.1.10. Identify and describe any changes that have occurred in the last two years, in the organisation of the business to be divested or in the links with other undertakings controlled by the notifying parties.

4.1.11. Identify and describe any changes, planned for the next two years, in the organisation of the business to be divested or in the links with other undertakings controlled by the notifying parties.

4.2. General information on the business to be divested as described in the commitments

4.2.1. Describe any areas where the business to be divested as set out in the commitments offered differs from the nature and scope of the business as currently operated.

4.3. Acquisition by a suitable purchaser

4.3.1. Explain the reasons why, in your view, the business will be acquired by a suitable purchaser in the time-frame proposed in the commitments offered.