

**08 Annex - Competition policy**

**30. DECISION ON APPROVAL OF THE CONCENTRATION  
OF UNDERTAKINGS RESULTING FROM THE ACQUISITION  
OF CONTROL BY CERERE S.P.A. LTD OVER KNJAZ  
TOBACCO**

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Montenegro

Competition Protection Administration

No: 01 – 12/2

Podgorica, 16 June 2008

Pursuant to Article 30, paragraph 1, item 3, and in conjunction with Articles 23 and 25 of the Law on Protection of Competition (Official Gazette of the Republic of Montenegro 69/05) and Article 6b of the Law on Amendments to the Law on Protection of Competition (Official Gazette of the Republic of Montenegro 37/07), and in conjunction with Article 28g of the Decree on amendments to the Decree on internal organization and method of work of state administration (Official Gazette of Montenegro 06/07), and Article 196, paragraph 1 of the Law on General Administrative Procedure (Official Gazette of the Republic of Montenegro 60/03), deciding on the Application for approval of concentration submitted by Cerere S.p.A., with the registered office at Via Torrebianca, 43 CAP 34122, Trieste, the Republic of Italy, registered as a joint stock company with the Chamber of Commerce in Trieste, under registration number 92633, through their authorized attorney, Rastko Petkovic, from the Law Office Karanovic & Nikolic, with the registered office at 7, Lepenicka st. Belgrade, the Competition Protection Administration hereby adopts the following

### **DECISION**

The concentration of undertakings resulting from the acquisition of control by Cerere S.p.A. Ltd over Knjaz Tobacco Ltd is declared to be acceptable.

#### **Statement of Reasons**

In accordance with Article 25 of the Law on Protection of Competition, the Cerere S.p.A. Ltd submitted, on 28 February 2008, the Application for approval of concentration, supplemented on 3 April 2008 and 24 April 2008, to the Competition Protection Administration, which is the implementer of this Law. Pursuant to Article 28 of this Law, the data from the Application for concentration approval were published in the Official Gazette of Montenegro 37/08, on 13 June 2008.

#### **Subject of the concentration**

In terms of Article 23 of the Law on Protection of Competition, the Cerere S.p.A. Ltd will acquire control over Knjaz Tobacco Ltd by implementing the concentration in question, through the purchase of 100% of shares. In the legal sense, a concentration arises when one undertaking acquires control over another one.

#### **Participants to the concentration**

The Cerere S.p.A. deals with the following trading activities: wholesale, import, export and transit of agricultural, fruit and vegetable products, fish and meat, citrus fruits, foodstuffs, including sugar, coffee and other tropical products, as well as zootechnical (beef and pork) and industrial products. The company deals with the following financial activities, in its name and for its account: purchase, sale and management of all types of securities and companies' shares; purchase, sale and management of real estate; purchase, sale and management of companies; and factoring and leasing.

Apart from this, the company also manages the Directorate of Maritime Transport.

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The company also deals with other activities, whether they are in its name and for its account, or in its name and for account of a third party (trust operations), or on behalf and for account of a third party (representation).

The company may perform all economic, industrial and financial activities, and activities related to movable and immovable property, whether or not they are related to the company's goals.

For the account of third parties, whether they are natural persons or legal entities, the company may issue all kinds of guarantees, such as fidejussion, aval, mortgage, and collateral for the account of third parties, whether natural or legal persons.

The company may also have a share in other companies or enterprises that deal with the same, similar, or related activities, both in Italy and abroad.

Since 1 November 2003, the company's predominant activity has been wholesale sugar deals.

Knjaz Tobacco is a limited liability company, with the registered office at Trg Save Kovacevica 20, Niksic. It is registered at the Central Register of the Commercial Court in Podgorica, under registration number 5-0426951/001. The code of activity is 51350 – tobacco products wholesale.

#### Legal basis for the concentration

The Competition Protection Administration, as the competent law enforcement body, was submitted a copy of the Share Sale Contract, concluded on 20 December 2007, by and between Slobodan Knezevic, from Niksic, 12, Dimitrija Bulatovica st. and Cerere S.p.A. Ltd, with the registered office at Via Torrebianca, 43 CAP 34122, Trieste, the Republic of Italy.

The Application was drafted in full compliance with the Instruction on the form and content of the request for the issuance of concentration approval (Official Gazette of the Republic of Montenegro 77/05), and it represents a quality documentary and analytical basis for the adoption of the Decision pertaining to its approval. This is so because, upon the assessment of the concentration effects and based on the criteria referred to in Article 29 of the Law on Protection of Competition, it can be established that this concentration does not prevent, restrict or distort the competition within the Montenegrin market.

According to the applicant's assessment, this concentration does not prevent, restrict or distort the competition within the Montenegrin market, especially in terms of creating or strengthening a dominant position on the market.

In terms of Article 25 of the Law on Protection of Competition, the submission of the Application for approval of the concentration was mandatory because the total joint income of the undertakings in the concentration exceeds EUR 3,000,000 on the domestic market and EUR 15,000,000 on the world market.

#### Relevant market

The relevant geographic market in this case comprises the territory of Montenegro, while the relevant product market regarding the concentration in question comprises the wholesale market for tobacco products.

According to the applicant's statements, tobacco products are sourced from Montenegrin producers or from importers of foreign cigarette brands, and are distributed to retail facilities for the purpose of consumption (retail facilities: supermarkets, newsagent's, petrol stations, etc.)

According to the letter from the Montenegro Agency for Tobacco, no. 01-41/2, dated 5 June 2008, the market share for the wholesalers of tobacco products on the Montenegrin market in the first quarter of 2008 was as follows:

- Roksped D.O.O <sup>1</sup>	53 %
- Bar Kod D.O.O	33 %
- Knjaz Tobacco D.O.O	12.7%
- Duvankomerc D.O.O	1.3 %

#### Concentration effects

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<sup>1</sup> Limited liability company

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The applicant states that, in terms of interests of the undertakings in the concentration, the vertical integration of these companies will build a profitable and efficient distributive network, which will enable the Cerere company to achieve a better control quality. In terms of interests of consumers, there will be an improvement of the product quality and control.

Based on the analysis of the Application in question, it follows that this concentration will not lead to a significant change of the relevant market structure. Therefore, it was decided as stated in the wording of the Decision.

LEGAL REMEDY: This Decision shall be final, and an administrative action before the Administrative Court of Montenegro may be brought within 30 days following the date of its receipt.

**ACTING DIRECTOR**

Zoran Perisic