

**COUNCLUSION**  
**on dismissal of joint Notification on concentration of the undertakings „Amko**  
**Komerc“d.o.o. Sarajevo and VINO župa a.d. Aleksandrovac, Republic of Serbia as**  
**Partnership group**

**Sarajevo,**  
**October, 2011**

Number: 02-26-1-12-10-II/11  
Sarajevo, 20<sup>th</sup> October 2011

Pursuant to Article 25 paragraph 1) Article 42 paragraph 2) of the Competition Act ( „Official Gazette of BiH“, No. 48/05, 76/07 and 80/09), solving upon joint Notification on concentration of undertakings AMKO KOMERC d.o.o. Sarajevo, Kolodvorska 12, Bosnia and Herzegovina and VINO ŽUPA a.d. Aleksandrovac, Kruševačka br. 36, Aleksandrovac, Republic of Serbia, represented by lawyer Hasanović Emina, Mula Mustafe Bašeskije 6, 71000 Sarajevo, received on 14<sup>th</sup> June 2011, No. 02-26-1-12-II/11, Council of Competition at its 20<sup>th</sup> session held on 20<sup>th</sup> October 2011, has issued the following

### **CONCLUSION**

1. Joint notification on concentration is dismissed whereby undertakings AMKO KOMERC d.o.o. Sarajevo, Kolodvorska 12, 71000 Sarajevo, Bosnia and Herzegovina and VINO ŽUPA a.d. Aleksandrovac, Kruševačka no. 36, 37230, Aleksandrovac, Republic of Serbia, are to form a partnership according to the Partnership Agreement OPU 3054/08 of 5<sup>th</sup> September 2008, due to the non-existence of obligation to notify concentration, pursuant to the provisions of Article 14 paragraph (1) of the Competition Act.
2. This Conclusion shall be published in "Official Gazette of BiH", official gazettes of Entities and Brcko District of Bosnia and Herzegovina.

### **Exposition**

Council of Competition received the joint Notification on concentration (hereinafter: Notification) No. 02-26-1-12-II/11 on 14<sup>th</sup> June 2011 filed by Partnership group based on the Partnership Agreement No. OPU 3054/08 of 5<sup>th</sup> September 2008, consisting of the undertaking AMKO KOMERC d.o.o. Sarajevo, Kolodvorska 12, 71 000 Sarajevo, Bosnia and Herzegovina (hereinafter: AMKO KOMERC) and undertaking VINO ŽUPA a.d. Aleksandrovac, Kruševačka No. 36, Aleksandrovac, Republic of Serbia (hereinafter: VINO ŽUPA), represented by a lawyer Hasanović Emina, Mula Mustafe Bašeskije 6, 71000 Sarajevo, (hereinafter: Applicant) whereby undertaking AMKO KOMERC intend to acquire control through the purchase of majority package of <sup>1</sup>(.)\*% shares of the undertaking HEPOK d.d. Mostar, Bišće polje bb, Mostar, Bosnia and Herzegovina (herinafter: HEPOK).

Having examined Notification, it was found that the application is incomplete in terms of Article 30 paragraph (1) of the Competition Act (hereinafter: the Act) and Decision on notification and assessment of the concentration of undertakings ("Official Gazette of BiH", No 34/10), and the Council of Competition requested amendment thereof, in accordance with Article 31 of the Act, in document No. 02-26-1-12-1-II/11 of 6<sup>th</sup> July 2011.

The Applicant supplemented the Notification in compliance with the requirements of the Council of Competition, submission number 02-26-1-12-3-II/11 of 18<sup>th</sup> July 2011, submission number 02-26-1-12-4-II/11 of 26<sup>th</sup> August 2011, submission number 02-26-1-12-5-II/11 of 9<sup>th</sup> September 2011. After completion of the Notification, Council of Competition issued a certificate of receipt

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<sup>1</sup>(.)\* data represent business secret

of complete and adequate Notification, pursuant to Article 30 paragraph (3) of the Act, on 29<sup>th</sup> September 2011 under the number: 02-26-1-12-6-II/11.

In accordance with Article 30 paragraph (2) of the Act, the Applicant states it has not submitted requests for a review of the concentration to some other body authorized to assess concentrations outside the territory of Bosnia and Herzegovina, as the parties to the concentration do business exclusively in the territory of Bosnia and Herzegovina, and that the Notification is filed before the issue of shares.

Council of Competition established that the Notification is filed within the prescribed period, pursuant to Article 16 paragraph (1) of the Act.

## **1. Participants to the concentration**

Participants to the concentration are undertakings AMKO KOMERC d.o.o. Sarajevo, Kolodvorska 12, 71000 Sarajevo, Bosnia and Herzegovina, undertaking VINO ŽUPA a.d. Aleksandrovac, Kruševačka 36, Aleksandrovac, Republic of Serbia and undertaking HEPOK d.d. Mostar, Bišće polje bb, 88000 Mostar, Bosnia and Herzegovina.

### **1.1. AMKO KOMERC d.o.o. Sarajevo**

Undertaking AMKO KOMERC is registered in Company Register of the Cantonal Court in Sarajevo, decision No. UF/I-2505/99 of 26<sup>th</sup> July 2000 with equity of 155.000,00 KM, owned by natural person Aleta Muamer<sup>2</sup>(.)\*\*.

Main registered business activities of the undertaking AMKO KOMERC are external and internal trade, wholesale and retail sale.

Undertaking AMKO KOMERC owns (.)\*\*% of equity in the undertaking Trgovačko društvo za promet roba na malo, veliko i vanjsku trgovinu MARKETI d.d. Sarajevo (hereinafter: MARKETI).

Main registered business activities of the undertaking MARKETI are external and internal trade, wholesale and retail sale.

### **1.2. VINO ŽUPA a.d. Aleksandrovac**

Undertaking VINO ŽUPA was registered at the Commercial Court in Kraljevo under number Fi 2450/02, registration number: 1-626-00, on 21<sup>st</sup> December 2002 and was entered in the register of economic entities of the Agency for Business Registers of the Republic of Serbia, the number of BD. 8276/2005 on 4<sup>th</sup> April 2005.

Main registered business activities of the undertaking VINO ŽUPA are production and distribution of wine, alcoholic drinks, juices, concentrates and bases for drinks.

The majority owner of the undertaking VINO ŽUPA is natural person Radimir Šljivić, (.)\*\*, with 70.0% share in the capital.

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<sup>2</sup>(.)\*\* data represents business secret

Undertaking VINO ŽUPA does not own 10.0% or more equity / shares or voting rights in any undertaking in Bosnia and Herzegovina, nor are there any undertakings in the relevant market in which the members of the board / supervisory board are at the same time, the administration / supervisory boards of these companies.

### **1.3. HEPOK d.d. Mostar**

Undertaking HEPOK was registered at the High Court in Mostar, under the registration number of I / O 28/94 on 28<sup>th</sup> July 1994. Total basic capital amounts to KM 18,796,074.00.

In the ownership structure of the undertaking HEPOK, Partnership group has 67.0% of basic capital <sup>3</sup>(..)\*\*% AMKO commerce, and (..)\*\*% VINO ŽUPA) while 33.00% are owned by natural and legal persons on the basis of previously made equity transformation. Main registered activities of the undertaking HEPOK are production and processing of fruit and wine production.

Undertaking HEPOK individually or together does not have more than 10.00% of the basic capital, i.e. 10.00% of voting rights in another undertaking in Bosnia and Herzegovina.

## **2. Legal basis and legal framework of the concentration**

As the legal basis of the concentration the Applicant submitted a Decision on the issue of shares through private placement deal to a known buyer, adopted by the Assembly of JSC "Hepok" d.d Mostar, under the number 10/11 of 4<sup>th</sup> June 2011, in accordance with the Law on Companies of FBiH ("Official Gazette of BiH" no. 23/99, 29/03, 68/05, 91/07, 84/08, 7/09), the Law on Securities Market (Official Gazette of BiH ", No. 85/08) and the provisions of the Rulebook on the issue of securities (" Official Gazette of BiH ", No. 18/09).

The purpose of the issuance of shares is to increase the capital base for the amount of investments according to the Purchase Agreement no. 03-19-2063/08 of 10<sup>th</sup> October 2008 in the privatization process (signed between the Agency for Privatization in Federation of Bosnia and Herzegovina and Partnership group), after the buyer Partnership Group fulfilled the contractual commitments.

The said Agreement states that if the sale of all issued shares is made, member of the Partnership group AMKO KOMERC becomes the majority shareholder with a stake (..)\*\*%, and VINO ŽUPA shall own (..)\*\*%, while the remaining 5.19% shall belong to small shareholders.

In accordance with the foregoing, and pursuant to Article 12 Paragraph (1) item b) 1) of the Act, the legal form of concentration is the acquisition of control by purchasing the majority shares.

## **3. Obligation to notify concentration**

The obligation to notify the concentration of undertakings, in terms of Article 14 paragraph (1) of the Act exists, if there is a total annual turnover of the parties realized from the sale of goods and / or services on the global market of over KM 100,000,000.00, according to final account in the year preceding the respective concentration, and if total turnover of each of at least two

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<sup>3</sup> data represent business secret

undertakings, participants to the concentration, arising from the sale of goods and / or services on the market of Bosnia and Herzegovina is at least 8,000,000.00 KM, or if their joint market share on the relevant market is greater than 40.0%.

Total annual turnover of the undertakings, participants to the concentration, (and their related business entities), as of 31<sup>st</sup> December 2010:

Table 1.

<b>Total turnover (KM)</b>	<b>AMKO KOMERC</b>	<b>VINO ŽUPA</b>	<b>HEPOK</b>
<b>World</b>		<sup>4</sup> (..)**	
<b>Bosnia and Herzegovina</b>	(..)**		(..)**

Source: data from Notification

According to the data from Notification (Table 1) participants to the concentration do not meet the requirement regarding the total annual turnover in terms of Article 14 paragraph (1) item a) and b) of the Act.

#### **4. Assessment of the concentration Notification**

Having analyzed data from the Notification, Council of Competition established that participants to the concentration were not obliged to notify the concentration since the requirements prescribed by Article 14 paragraph 1 of the Act have not been met.

Therefore, Council of Competition decided as in the exposition of this Conclusion.

#### **5. Administrative taxes**

The Applicant is obliged to pay the administrative tax for this Conclusion, in accordance with Article 2 tariff number 108 item c) of the Regulation on administrative fees regarding the procedural actions before the Council of Competition («Official Gazzete BiH», No. 30/06 and 18/11), in amount of KM 1.000,00 for the benefit of Budget of Institutions of Bosnia and Herzegovina.

#### **6. Legal remedy**

Appeal against this Conclusion is not allowed.

Unsatisfied party can initiate administrative procedure before the Court of Bosnia and Herzegovina within 30 days from the day of receipt or publication of this Conclusion.

**President**

**Ibrica Lakišić**

<sup>4</sup>(..)\*\* data represent business secret