

DECISION

**Adopted upon Notification of intended concentration of economic entity Belupo
lijevovi i kozmetika d.d.(pharmaceutical preparations and cosmetic products)
Koprivnica, Republic of Croatia and Farmavita društvo za proizvodnju i trgovinu
lijevkova d.o.o. (production and trade in pharmaceutical preparations) Sarajevo,
BiH**

**Sarajevo
April, 2008**

Number: 01-01-26-004-20-II/08
Sarajevo, 16 April 2008

Pursuant to Article 25, paragraph (1), item e), article 42, paragraph (1) item d), and Article 43, paragraph (2), in connection with Articles 12, 14, 16 and 18 of the Act on Competition («Official Gazette of BH», No. 48/05 and 76/07) and upon a Notification of intended concentration of economic entity BELUPO lijekovi i kozmetika d.d. (pharmaceutical preparations and cosmetic products), Danica 5, 48000 Koprivnica, Republic of Croatia and economic entity FARMAVITA- društvo za proizvodnju i trgovinu lijekova d.o.o. (production and trade in pharmaceutical preparations) Sarajevo, Igmanska 5-a, Sarajevo – Vogošća, submitted by a lawyer Kerim Karabdić, Hadži Idrizova 20, 71000 Sarajevo , number 01-01-26-004-II/08, on 04 February 2008, the Council of Competition at its 35 (thirty -fifth) session, held on 16 April 2008 ,has adopted

D E C I S I O N

1. Concentration in the market of production and sales of medicines and pharmaceutical products in Bosnia and Herzegovina, to appear through acquisition of control by purchasing majority of ownership shares in the economic entity FARMAVITA - društvo za proizvodnju i trgovinu lijekova (a company for the production and trade of pharmaceuticals) d.o.o., Sarajevo, Igmanska 5-a, Sarajevo - Vogosca, by the economic entity Belupo lijekovi i kozmetika (pharmaceuticals and cosmetics) JSC, Danica 5, 48000 Koprivnica, Croatia, is assessed compatible.
2. This Decision on concentration shall be recorded at the Register on concentrations.
3. This Decision is final and it will be published in Official Gazette of BH and in official gazettes of Entities and Brcko District of Bosnia and Herzegovina.

E x p o s i t i o n

On 04 February 2008, the Council of Competition received a Notification on intended concentration, to appear through acquisition 65.00% of ownership share in the economic entity FARMAVITA- društvo za proizvodnju i trgovinu lijekova (a company for the production and trade in pharmaceuticals) Ltd., Sarajevo, Igmanska 5 , Sarajevo - Vogosca (hereinafter: FARMAVITA), which was submitted by economic entity Belupo lijekovi and kozmetika (pharmaceuticals and cosmetics) JSC, Danica 5, 48000 Koprivnica, Croatia (hereinafter: Belupo or the Applicant), represented by a lawyer Kerim Karabdić, Hadzi Idrizi 20, Sarajevo.

Having insight into the Notification of intended concentration (hereinafter: the Notification) it was found that it was not complete, and that it should be supplemented in the sense of Article 30, paragraph (1) of the Act on Competition (hereinafter: the Act) and the provisions of the Regulation on Notification and Criteria for Assessment a Concentration of economic entities ("Official Gazette BiH, number 95/06). Belupo was requested to amend the Notification : act number: 01-01-26-004-2-II/08 on 07.02.2008. ; act number: 01-01-26-004-5-II/08 on 15.02.2008.; act number: 01-01-26-004-7-II/08 on 25.02.2008.; act number: 01-01-26-004-10-II/08 on 04.03.2008.

The Applicant submitted the supplements and required documentation: act number: 01-01-26-004-3-II/08 on 11.02.2008. ; act number: 01-01-26-004-6-II/08 on 22.02.2008.; act number: 01-01-26-004-8-II/08 on 27.02.2008.; act number: 01-01-26-004-9-II/08 on 03.03.2008.; act number: 01-01-26-004-11-II/08 on 05.03.2008.).

After receiving the required documentation, the Council of Competition found that the Notification was complete, and issued an Acknowledgment of complete and accurate application, in accordance with Article 30, paragraph (3) of the Act , number: 01-01-26-004-14-II/08, on 11.03.2008.

The Applicant, in the sense of Article 30, paragraph (2) of the Act, said that there was no obligation to apply for evaluation of the concentration by another body outside the territory of Bosnia and Herzegovina.

Council of Competition found that this Notification was filed in the legally determined period, within the meaning of Article 16, paragraph (1) of the Act.

Council of Competition during the assessment procedure of this concentration has determined the following facts:

1. Parties to the concentration

The participants to this concentration are FARMAVITA - društvo za proizvodnju i trgovinu lijekova Ltd. (a company for the production and trade in pharmaceuticals), Sarajevo, 5-a Igman, Sarajevo - Vogosca and Belupo lijekovi i kozmetika, JSC, Danica 5, 48000 Koprivnica, Republic of Croatia.

1.1. BELUPO

Belupo is founded on 02.01.1992. by entering in the court register of the District Commercial Court in Bjelovar, Republic of Croatia based on the Decision number Fi-999/91. Subsequently, Belupo is re-registered in the Commercial Court in Bjelovar, under the number of MBS 010,006,854. Primary activities of the BELUPO are the production and distribution of medicine, pharmaceutical products, and means of disinfection, cosmetics, medical preparations and other chemical products.

The only shareholder and 100% owner of BELUPO is economic entity Belupo Podravka prehrambena industrija (food industry) JSC, Ante Starcevic 32, 48000 Koprivnica, Croatia. Economic entity Podravka prehrambena industrija Koprivnica owns a connected company in Bosnia and Herzegovina - Podravka Ltd. Sarajevo, Safet Zajko street 269, 71000 Sarajevo.

Belupo has been operating in the market of Bosnia and Herzegovina since 1999 through its agency in Sarajevo, Hakija Kulenovic Street. Since the agency has no status of legal entity, the distribution and sale of Belupo's products is made through distributors, of which the most important are: Tuzlafarm-Tuzla, Vitezlijek - Vitez, Hercegovinalijek - Mostar and FARMAVITA - Sarajevo.

Belupo has no ownership in the 10% or more of the capital / shares or voting rights in any legal entity in Bosnia and Herzegovina, and there is no legal entity in the market for production and sales of pharmaceuticals and pharmaceutical products in Bosnia and Herzegovina whose members of management / supervisory board are at the same time the members of management / supervisory board of Belupo .

1.2. FARMAVITA

Economic entity FARMAVITA is established on 07 August 1991 by entering in the court register of the Municipal Court of associated labor Sarajevo, under registration number: 1-6780 based on Decision number: U/I-3732/91. FARMAVITA is re-registered in the court registry of the Cantonal Court in Sarajevo by Decision number UF / I 1159 / 0 of 20 September 2001.

Its main business activities are: production of pharmaceutical preparations and wholesale trade in pharmaceutical products. FARMAVITA operates with about 400 customers in the territory of Bosnia and Herzegovina and supplies products to retail facilities (pharmacies) as well as to end- customers (clinical centers, public health centers).

Founder and owner of the economic entity Farmavita is a natural person Babić Sead, PIN (..)**, residing in the street (..)**, 71000 Sarajevo.

Economic entity FARMAVITA does not own 10% or more of the capital / shares or voting rights in any legal entity in BiH, nor has the legal entities in the market for production and sales of pharmaceuticals and pharmaceutical products in Bosnia and Herzegovina whose members of management / supervisory board are at the same time the members of management / supervisory board of FARMAVITA.

2. Total income of the parties to the concentration

In terms of the provisions of Article 14, paragraph (1), item a) of the Act, the obligation of notification of the intent of concentration exists if total annual income realized by the participants to the concentration in selling goods and / or services on the world market, amounts over 100,000,000.00 KM, according to the final account

in the year that preceding the concentration, and if at least one economic entity is registered in the territory of Bosnia and Herzegovina.

Total annual income of the participants to the concentration on the day of 31December2007 is shown in Table 1

Table 1.

	BELUPO	FARMAVITA
World	(..)**KM (..)**HRK	-
Bosnia and Herzegovina	(..)**KM (..)**HRK	(..)**KM

The data listed in Table 1 show that filing the Notification of intended concentration has been obligatory, in accordance with the Article 14, paragraph (1) item a) of the Act, because the total annual income of the participants to the concentration amounts over 100,000,000.00 KM, according to the final account in the year preceding the concentration, and one economic entity, a participant to the concentration is registered in the territory of Bosnia and Herzegovina.

3. Legal basis and form of the concentration

According to the Agreement, joining of Belupo shall remain the shares capital unchanged, in the amount of (..)** KM, as well as legal forms of Farmavita- a limited liability company.

After the implementation of this concentration, the shares capital of the economic entity FARMAVITA will be divided into two shares to the founders, as follows:

- BELUPO (..)** KM in cash or 65.0% share
- Babić Sead (..)** KM in cash or 35.0% share

Legal form of this concentration is acquisition of control in the economic entity FARMAVITA by the economic entity Belupo, in accordance with Article 12, paragraph (1) item b) of the Act.

4. Relevant market of this concentration

Relevant market, in the sense of Article 3 of the Act and art. 4, 5 and 6 of Regulation on definition of relevant market (Official Gazette BiH, number 18/06) is the market of certain products / services that are subject to business activities in a particular geographic market.

Relevant product market of this concentration is a market for production and sale of pharmaceuticals and pharmaceutical products.

Relevant geographic market of this concentration is a territory of Bosnia and Herzegovina, since the parties to the concentration act in the same.

According to the above, the Council of Competition thinks that relevant market of this concentration is a market for production and sale of pharmaceuticals and pharmaceutical products throughout Bosnia and Herzegovina.

4.1. Analysis of relevant market

The Applicant in the Notification has provided data on market share of the parties to the concentration in the relevant market for 2007, as well as market share of their competitors, which are based on estimates of the parties to the concentration. Table 2 gives an overview of market shares of manufacturers of pharmaceuticals and pharmaceutical products in Bosnia and Herzegovina.

Table 2.

NO	Producers	Market share (%)
1.	Bosnalijek JSC, Sarajevo	68,00
2.	Hemofarm Ltd., Banja Luka	24,00
3.	Pharmamed JSC., Travnik	5,00
4.	Farmavita Ltd, Sarajevo	3,00
	TOTAL	100,00

The data on market share of manufacturers of pharmaceuticals and pharmaceutical products in Bosnia and Herzegovina (Table 2) show weak market competition in the relevant market, where two manufacturers of pharmaceuticals have high market share (Bosnalijek has 68% and Hemofarm has 24%) in comparison to other manufacturers in Bosnia and Herzegovina.

The following table (Table 3) shows the market share of the parties to the concentration and their competitors in the market for sale of pharmaceuticals and pharmaceutical products in Bosnia and Herzegovina:

Table 3.

NO	Parties on the market	Market share (%)
1.	Bosnalijek, BH	15,7
2.	Pliva, Croatia	8,3
3.	Krka, Slovenia	6,9
4.	Hoffman La Roche, France	5,8
5.	Hemofarm Ltd., Banja Luka, BH	5,5
6.	Hemofarm JSC., Vršac, Serbia	5,4
7.	Lek, Slovenia	5,2
8.	Alkaloid, Macedonia	3,2
9.	GlaxoSmithKline, England	3,2

10.	Galenika, Serbia	2,8
11.	Belupo, Croatia	2,8
12.	Ely Lilly, USA	2,6
13.	Novo Nordisk, Denmark	2,5
14.	Aventis, France	2,0
15.	Pfizer, USA	1,8
16.	Schering, USA	1,7
17.	Bayer Pharma, Germany	1,4
18.	Pharmamed, BH	1,1
19.	Farmavita, BH	0,5
20.	Other	21,6
	TOTAL	100,00
	Total (11+19)	3,3

The data from Table 3 show that the largest market share in the market for sale of pharmaceuticals and pharmaceutical products in Bosnia and Herzegovina have Bosnalijek with 15.7%, Pliva with 8.3% and Krka with 6.9% of market share, while the parties to the concentration have together 3.3% of share .

The data show that there is strong competition in the relevant market, and that concentration is not a subject to significant changes of market shares, given that the share of the parties to the concentration on the relevant market is relatively low.

5. Appraisal of the effects of this concentration

In accordance with Article 17 of the Act, the Council of Competition made analysis of positive and negative effects of the intended concentration and discussed all the relevant facts, and assessed that this concentration would not create or strengthen a dominant position in the relevant market of production and sales pharmaceuticals and pharmaceutical products in the territory of Bosnia and Herzegovina.

In addition, the parties to the concentration are expecting that implementation of this concentration will cause benefits to end consumers, such as lowering the price of products, increase product quality, the introduction of innovations in production, increasing and expanding choice of products and / or services through increasing the number of registered pharmaceuticals, etc.

When Belupo acquires control, for FARMAVITA will be opened a possibility of going to other markets outside of Bosnia and Herzegovina.

The Council of Competition considers that the implementation of this concentration strengthens the position of FARMAVITA on the relevant market, which will eventually decrease disproportion between the market shares of producers. The Council of Competition has found that this concentration will not prevent, restricts or distort the market competition in the relevant market.

According to the data and facts the Council of Competition has decided as in the operative part of this Decision.

6. Administrative tax

On this Decision the Applicant, pursuant to the Article 2, tariff number 107, paragraph (1), item d) 1) of the Regulation on administration taxes relating to the practices before the Council of Competition (“Official Gazette of BIH”, No. 30/06), is obliged to pay administration tariff of 2.500,00 KM for the benefit of the Budget of Institutions of Bosnia and Herzegovina.

7. LEGAL REMEDY

This Decision is final and no appeal is allowed against it. Unsatisfied party shall be entitled to bring an administrative dispute before the Court of Bosnia and Herzegovina within thirty days (30 days) from the date of receipt of this Decision, i.e. from the date of its publication.

President

Sanja Božić