

DECISION

upon Notification on concentration of undertaking "Naftna industrija Srbije" a.d. Novi Sad, Republic of Serbia, undertaking Benzinska stanica Trn 1, Trn, Laktaši, undertaking Benzinska stanica Trn 2, Trn, Laktaši

**Sarajevo,
October 2011**

Number: 03-26-1-16-10-II/11
Sarajevo: 12th October 2011

Pursuant to Article 42 paragraph (1) item d), in accordance with Articles 12, 14, 16, and 18 of the Competition Act (Official Gazette of BiH", No. 48/05, 76/07 and 80/09), solving upon Notification on concentration of the Company for research, production, processing, distribution and trading of petroleum and natural gas production "Naftna industrija Srbije" a.d. Narodnog Fronta 12, Novi Sad, Republic of Serbia, and undertaking Benzinska stanica Trn 1, Trn, 78250 Laktaši, owned by undertaking "SINECOOP" d.o.o. for agricultural production, processing and trade Trn-Laktaši, Prijedorska bb, Trn, 78250 Laktaši and undertaking Benzinska stanica Trn 2, Trn, 78250 Laktaši, owned by natural person Roguljić Bojan, Trn, 78250 Laktaši, received on 27th July 2011, No: 03-26-1-16-II/11, Council of Competition at its 19th (nineteenth) session held on 12th October 2011, issued the following

DECISION

1. Concentration that will occur in the retail market of petroleum products in the Republic of Srpska is assessed as compatible whereby undertaking Company for the research, production, processing, distribution and trading of petroleum and natural gas production "NIS" a.d. Narodnog Fronta, 12, Novi Sad, Republic of Serbia is to acquire control by purchasing the majority share of equity capital in undertaking Benzinska stanica Trn 2, Trn, 78250 Laktaši.
2. This Decision is final and shall be entered in the Register of concentrations.
3. This decision 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 Notification on concentration No.: 03-26-1-16-II/11 of 27th July 2011 (hereinafter: the Notification) filed by the undertaking Company for research, production, processing, distribution and trading of petroleum and natural gas production "Naftna industrija Srbije" a.d. Narodnog fronta 12, Novi Sad, Republic of Serbia (hereinafter referred to as "NIS", or the Applicant), whereby the undertaking " NIS " intends to buy 100.0% of the equity capital of the undertaking Benzinska stanica Trn1, Trn , 78250 Laktaši (hereinafter: BS Trn1), ownership of the undertaking "SINECOOP" d.o.o. for agricultural production, processing and trade-Trn Laktaši, Prijedorska bb, 78250 Laktaši, and undertaking Benzinska stanica Trn 2, Trn, 78250 Laktaši (hereinafter: BS Trn 1), owned by a physical person Roguljić Bojan, Tm, 78250 Laktaši.

Having examined the documents submitted in accordance with Article 30 of the Competition Act (hereinafter: the Act) and Article 9 and 11 of the Decisions on notification and assessment of the concentration of undertakings ("Official Gazette of BiH", No 34/10), Council of Competition found that the application is incomplete and requested amendment thereof, in accordance with Article 31 of the Act, in document No. 03-26-1-16-3-II/11 of 9th August 2011.

The Applicant has submitted the required documentation, submission received on 22nd August 2011 under the number: 03-26-1-16-4-II/11.

Having received the required documentation, the Council of Competition found the Notification complete and issued a certificate of receipt of complete and adequate Notification, pursuant to Article 30 paragraph (3) of the Act, on 22nd September 2011 under the number: 03-26-1-16-5-II/11.

The Applicant stated, in terms of Article 30 paragraph (2) of the Act, that it has not applied for the evaluation of the concentration to authorized competition authorities beyond the territory of Bosnia and Herzegovina.

Council of Competition, in accordance with Article 16 paragraph (4) of the Act, issued a Notice on submitted Notification in the daily newspapers of Bosnia and Herzegovina, No. 03-26-1-16-7-II/11 of 26th September 2011, publishing data on the concentration, and invited all directly interested parties to submit written comments regarding the implementation of the same. There were no comments of interested parties on the relevant Notice.

During the assessment of the concentration Council of Competition established the following facts:

The notification of concentration has been filed within the prescribed period, pursuant to Article 16 paragraph (1) of the Act.

1. Participants to the concentration

Participants to the concentration are undertaking Company for research, production, processing, distribution and trading of petroleum and natural gas production "Naftna industrija Srbije" a.d. Narodnog fronta 12, Novi Sad, Republic of Serbia, undertaking Benzinska stanica Trn 2, Trn, 78250 Laktaši and undertaking Benzinska stanica Trn 1, Trn, 78250 Laktaši.

1.1. "NIS"

Company for research, production, processing, distribution and trading of petroleum and natural gas production "Naftna industrija Srbije" a.d. Narodnog fronta 12, Novi Sad, Republic of Serbia, (short name: "NIS" a.d. Novi Sad), was founded on 1st October 2005 and registered with the Agency for Business Registers of Republic of Serbia, registration number: 20084693.

Main registered activities of the undertaking "NIS" are the exploration, production and processing of petroleum, petroleum products and gas, distribution and sale of petroleum, petroleum products and gas, and foreign trade activities.

Subsidiaries of the undertaking "NIS" as of 12th July 2011 are:

- Subsidiary NIS NAFTAGAS Novi Sad, Republic of Serbia (including the natural gas refinery in Elemir) conducts research and production of oil and gas sectors including oil services which provide support to the implementation of productive activities;

- Subsidiary NIS-PETROL Novi Sad, Republic of Serbia (including oil refineries in Pancevo and Novi Sad) conducts business processing and sale of petroleum and petroleum products in over 476 active gas stations, 8 major installations and 31 active stocks in the Republic of Serbia;
- Subsidiary NIS-TNG Elemir, Republic of Serbia, performs activities of wholesale of solid, liquid and gaseous fuels and related products;
- Subsidiary NIS a.d. - NIS - Naftagas in Turkmenistan, performs drilling works in the oil and gas, provides laboratory services to servicing the oil and gas facilities and is engaged in research work;
- Representative NIS a.d. Novi Sad, Moscow Russian Federation, is engaged in exploration, production, processing and distribution of crude oil and natural gas and products thereof;
- Representative NIS a.d. Novi Sad - NIS - NAFTAGAS Luanda, Angola, is engaged in research, manufacturing and the like;
- Subsidiary of closed joint stock company for research, production, processing, distribution and trading of petroleum exploration and production of natural gas NIS a.d. Novi Sad in Nojabrsku, Russian Federation, established to protect and represent the interests of the company;
- Representative NIS a.d. Novi Sad in Brussels, Kingdom of Belgium.

Ownership structure of the undertaking "NIS" as of 6th July 2011:

Table 1

No.	Shareholders of NIS	Share of voting stocks (%)
1.	GASPROM NEFT	56,15458
2.	REPUBLIKA SRBIJA	29,87567
3.	ERSTE BANK CUSTODY	0,42797
4.	ZAGREBAČKA BANKA D.D.	0,36203
5.	THE ROJAL BANK OF SCOTLAND	0,12553
6.	CITYGROUP GLOBAL MARKET LTD	0,09368
7.	JULIUS BAER MULTIPARTNER-BALKA	0,06009
8.	HYPO KASTODI 4	0,04631
9.	UNICREDIT BANK AUSTRIA AG	0,04615
10.	EAST CAPITAL ASSET MANAG.	0,04069
11.	Other shareholders	12,76730
	TOTAL	100,0

Source: Data from Notification

The above data (Table 1) show that the majority owner of the undertaking "NIS" is the undertaking Gazprom Neft, Sankt-Peterburg, Russian Federation.

Undertaking "NIS" does not operate in the retail market of petroleum products in Bosnia and Herzegovina.

In Bosnia and Herzegovina undertaking "NIS" operates through associated undertaking "Naftagas Adriatic" d.o.o. Banja Luka (66% equity stake in the capital) with the main registered activity of research and production of oil and gas.

1.2. BS Trn 1

The undertaking Benzinska stanica Trn 1 is 100.0% owned by the undertaking "SINECOOP" d.o.o. for agricultural production, processing and trade-Trn Laktaši, Prijedorska bb, Trn, 78250 Laktaši, registered in the District Commercial Court in Banja Luka under the number of MBS: 1-1781-00, which is owned by private individuals Mirela Kovacevic and Roguljić Bojan, each with 50% ownership share.

The undertaking BS Trn 1 is in the lease of the undertaking "ANECOP" d.o.o. for trade and mediation Laktaši since 20th January 2011.

1.3. BS Trn 2

The undertaking Benzinska stanica Trn 2 is 100.0% owned by a physical person Roguljić Bojan (..)*, Trn, 78250 Laktaši.

The undertaking BS 2 is in the lease of the undertaking "ANECOP" d.o.o. for trade and mediation Laktaši since 20th January 2011.

2. Obligation to notify the concentration

The obligation to notify a concentration, within the meaning of Article 14 paragraph (1) under b) of the Act exists if a total annual turnover of at least two parties to the concentration realized through the sale of goods and / or services on the market of Bosnia and Herzegovina is at least 8,000,000.00 KM in the final account in the year preceding concentration, or if their combined share in the relevant market exceeds 40%.

Total annual turnovers of the participants to the concentration as of 31st December 2010:

Table 2

	NIS	BS Trn 1	BS Trn 2
Bosnia and Herzegovina	(..)*	(..)*	(..)*
World	(..)*	-	-

Source: Data from the Notification

Council of Competition established (Table 2) that the undertaking "NIS" and undertaking BS Trn 2 realized total turnover of over 8 million KM on the market of Bosnia and Herzegovina in 2010, and are liable to notify the concentration, while undertaking BS Trn 1 did not realize a turnover of more than 8 million KM, and is not subject to the notification of concentration.

3. Legal framework of the concentration assessment

During the procedure of the assessment of the concentration Council of Competition applied the provisions of the Act, Decision on notification and criteria for assessment of concentration of the undertakings and Decision on determining the relevant market ("Official Gazette of BiH" no. 18/06 and 34/10)

4. Legal basis and form of the concentration

The Notification contains Contract of purchase of BS Trn 2 as the legal basis for the concentration signed on 14th July 2011, between the buyer undertaking "NIS" and seller natural person Roguljić Bojan, notary processed on 14th July 2011 OPU No. 1231/2011, by the same notary.

Legal form of concentration in accordance with Article 12 paragraph (1) item b) 1) of the Act is acquisition of control or dominant influence of undertaking ("NIS") over the other undertaking (BS Trn 2), by purchasing 100.0% shares in the capital.

5. Relevant market

The relevant market, in terms of Article 3 of the Act and Articles 4 and 5 of the Decision on determining the relevant market, is the market of certain products / services that are the subject of business operation in a particular geographic market.

According to Article 4 of the Decision on determining the relevant market, relevant product market comprises all products and / or services that consumers and / or users consider mutually substitutable, under acceptable conditions, especially bearing in mind their essential characteristics, quality, common purpose, usage, sale conditions and prices . Furthermore, according to Article 5 of the Decision on the determining the relevant market, the relevant market in the geographical sense includes the whole or a substantial part of the territory of Bosnia and Herzegovina in which the undertakings operate in the sale and / or purchase of the relevant product under equal or sufficiently homogeneous conditions and which are significantly different from the conditions of competition on neighboring geographic markets.

Relevant market is determined according to the subject of operation and territory where targeted undertakings in the concentration operate.

Based on the foregoing, the relevant product market is determined as the retail market of petroleum products, while the relevant market in terms of specific geographic territory is the territory of Republic of Srpska.

6. Analysis of the relevant market

Market shares of the participants to the concentration and their competitors, determined according to the number of petrol stations on the relevant market of Republic of Srpska.

Table 3

No.	Undertaking	No. of petrol stations in RS	Market share %
1.	Nestro Petrol	79	20,31
2.	Parma Trend	22	5,66
3.	Krajinapetrol	14	3,60
4.	Petrol BH Oil Company	10	2,57
5.	BS Trn 2	1	0,39
6.	Others	262	67,35
	TOTAL	389	100,00

Source: Data from the Notification and data of Council of Competition

According to the data (Table 3) undertaking BS Trn 2 has market share of 0,39%, while the undertaking "NIS" did not have market share since it did not operate in the retail sale of petroleum products on the relevant market.

After the implementation of the concentration, undertaking „NIS" will have total market share of 0,39% on the relevant market.

7. Assessment of the concentration

Having analyzed relevant data, in terms of Article 17 of the Act, Council of Competition assessed that the implementation of the proposed concentration will not distort competition or create or strengthen a dominant position of parties to the concentration.

In making final decision Council of Competition took into consideration the fact that the undertaking "NIS" has not participated in the relevant retail market of petroleum products in Republic of Srpska, and that its market share after the implementation of the concentration will be negligible.

The Council of Competition, pursuant to Article 18 paragraph (2) item a) of the Act, rendered the decision as cited in the exposition of this Decision.

8. Administrative tax

In accordance with Article 2 tariff number 107 paragraph (1) item d) point 1) of the Regulation on administrative taxes related to procedural actions before the Council of Competition («Official Gazette of BiH», No. 30/06 and 18/11) the Applicants are obliged to pay administrative tax for this Decision in amount of 2.500,00 KM for the benefit of the Budget of institutions of Bosnia and Herzegovina.

9. Legal remedies

Appeal against this Decision 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