

THE NOTIFICATION FORM OF AGREEMENT

SECTION 1

General information

1.1 Information on notifying party (or parties)

Give details of:

- 1.1.1 Name, legal form and address of undertaking;
- 1.1.2 The tax code
- 1.1.3 Nature of the undertaking's business
- 1.1.4 The undertaking's activities (main and secondary, specifying the level in the production chain)
- 1.1.5 The overall nation-wide turnover
- 1.1.6 The turnover from sales of the products affected by the agreement, home and abroad
- 1.1.7 Name, address, telephone number, fax number and/or telex of, and position held by, the appropriate contact person.
- 1.1.8 The role played in the agreement

1.2. Information on other parties to the agreement.

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

- 1.2.1 Name, legal form and address of undertaking;
- 1.2.2 The tax code
- 1.2.3 Nature of the undertaking's business
- 1.2.4 The undertaking's activities (main and secondary, specifying the level in the production chain)
- 1.2.5 The overall nation-wide turnover
- 1.2.6 The turnover from sales of the products affected by the agreement, home and abroad
- 1.2.7 Name, address, telephone number, fax number and/or telex of, and position held by, the appropriate contact person
- 1.2.8 The role played in the agreement.

1.3 Address for service

Give an address (in Tirana if available) to which all communications may be made and documents delivered.

1.4 Appointment of representatives

Where notifications are signed by representatives of undertakings, such representatives must produce written proof that they are authorized to act.

If a joint notification is being submitted, has a joint representative been appointed.

If yes, please give the details requested in Sections 1.4.1 to 1.4.4.

If no, please give details of information of any representatives who have been authorized to act for each of the parties to the agreement, indicating whom they represent:

- 1.4.1 Name of representative;
- 1.4.2 Address of representative,
- 1.4.3 Name of person to be contacted (and address, if different from 1.4.2);
- 1.4.4 Telephone number, fax number and/or telex.

SECTION 2

Description of the Agreement

Please submit a short description of the agreement forming the subject matter of the notification, indicating the undertakings parties to it, the product/services involved and economic purposes which the participating undertakings intend to pursue. If this is stated in a written document, briefly describe the contents of that document and annex copy of it; if it is not set out in a written document (or only partially), provide a detailed description of the substance of the agreement.

SECTION 3

Definition of the relevant market

The notifying party must supply a brief description of the relevant market affected by the agreement.

The relevant product and geographic markets determine the scope within which any restriction of competition resulting from the agreement must be assessed.

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

I. The relevant product market

A relevant product market includes all the products and/or services, which consumers see as interchangeable or substitutable by reason of their characteristics, prices and intended uses. A relevant product market may in some cases be composed of a number of individual products and/or services which present largely identical physical or technical characteristics and are interchangeable.

Factors relevant to the assessment of the relevant product market include the elements explaining why certain products or services are included and others are excluded, by using the above definition, and taking into account, for example, substitutability, conditions of competition, prices, cross-price elasticity of demand or other factors relevant for the definition of the product markets.

The definition of the relevant product market focuses generally on demand-side substitutability. Competition Authority in order to assess the overall competitive conditions in a market, considers the possibility of substitution on the supply side, namely, the possibility for other producers to easily reconvert their own capacity, to enable them to place products or services on the market in substitution of those offered by the parties to the agreement.

II. Relevant geographic market.

A relevant geographic market is the area in which the undertakings parties to the agreement supply the relevant products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighboring geographic areas because, in particular, conditions of competition are appreciably different in those areas.

Factors relevant to the assessment of the relevant geographic market include the nature and agreement the products or services concerned, transport costs, the existence of other entry barriers, consumer preferences, appreciable differences in the undertakings' market shares between neighboring geographic areas or substantial price differences.

III. Affected markets

For purposes of information required in this Form, affected markets consist of relevant product markets where, in the Albanian territory:

Two or more of the parties to the agreement are engaged in business activities in the same product market. These are horizontal relationships;

One or more of the parties to the agreement are engaged in business activities in a product market, which is upstream or downstream of a product market in which any other party to the agreement is engaged. These are vertical relationships.

On the basis of the above definitions and market share, provide the following information and identify each affected market within the meaning of section 3, paragraph III (a), (b)

IV. Markets related to affected markets within the meaning of paragraph III

Describe the relevant product and geographic markets concerned by the notified agreement, which are closely, related to the affected market(s) (in upstream, downstream and horizontal neighboring markets), where any of the parties to the agreement are active and which are not themselves affected markets within the meaning of paragraph III.

V. Non-affected markets

In case there are no affected markets in the meaning of section 3, IV describe the product and geographic scope of the markets on which the notified agreement could have an impact.

SECTION 4

Other information on the relevant markets

For each relevant market affected by the agreement, provide the following:

- 4.1 An estimate of the total size of the market in terms of sales value (in ecus) and volume (units) for the Albanian market and in the opinion of the notifying parties, the relevant geographic market is different. Indicate the basis and sources for the calculations and provide documents where available to confirm these calculations;
- 4.2 An estimate of the sales volume, of the product affected by the agreement, of the Albanian market and in the opinion of the notifying parties, the relevant geographic market is different;
- 4.3 An estimate of the value and if possible the volume of import and export of all competitors (including importers) affected by the agreement. Provide documents where available to confirm the calculation of these market shares and provide the name, address, telephone number, fax number and appropriate contact person, of these competitors;
- 4.4 An estimate of the total value and volume and source of imports from outside the Albanian territory and identify:
 - a) the proportion of such imports that are derived from the groups to which the parties to the agreement belong;
 - 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;
- 4.5 The extent to which trade among Albanian and other states is affected by:
 - a) transportation and other costs; and
 - b) other non-tariff barriers to trade;
- 4.6 The manner in which the parties to the agreement produce and sell the products and/or services; for example, whether they manufacture locally, or sell through local distribution facilities;
- 4.7 The nature and extent of vertical integration of each of the parties to the agreement compared with their largest competitors.
- 4.8 For each relevant market describe:

- a) The nature and trend of the demand, indicating in particular its elasticity in terms of price;
- b) The type and approximate number of purchasers, and
- c) The organization for the production and sale of the product, indicating the main distribution channels and service networks.

4.9 When the agreement affects several production and/or markets:

- a) Provide an analysis of the technological, production and distribution links between those market and
- b) State whether the entry of a new undertaking into one of the markets requires the simultaneous entry into another market.

SECTION 5

Information on the object and/or effect of the agreement and on the position of the parties on the market

5.1 Aspects of agreement which appear to restrict competition.

Describe the aspects of the agreement which might restrict the freedom of the parties to take independent commercial decisions, with particular regard to:

- a) buying or selling prices, discounts or other trading conditions;
- b) the quantities of products to be manufactured or distributed or services to be offered;
- c) market access or outlets;
- d) investment, technical development or technological progress;
- e) the choice of markets or sources of supply;
- f) the application of different terms for the supply of equivalent products and services;

State whether, and for how long, the notified agreement has been implemented by the undertakings parties to it, and if it has achieved its purposes.

5.2 The competitive position of each of the parties to the agreement on each market relevant to the agreement

According to, provide:

5.2.1 An estimate of the market share (in value and volume) of each of the undertakings parties to the agreement and their parent and subsidiary undertakings on the relevant market, for each of the last three years;

5.2.2 An estimate of the market share of the main competitors (both Albanian and foreign) operating on the same markets, indicating the five largest ones. Provide the name,

address, and telephone number, fax number and appropriate contact person, of these competitors;

- 5.2.3 A list of the five main customers of each undertaking party to the agreement, providing useful information for contacting them;
- 5.2.4 Supply an estimate of capacity utilization of the undertakings parties to the agreement and, where available, that of the competitors.

Furthermore, if the agreement affects several relevant product or service markets, provide:

- 5.2.5 Provide an estimate of the total market share of the undertakings parties to the agreement, and that of their parent and subsidiary undertakings, on each of the affected markets for each of the last three years;
- 5.2.6 State which agreements of a similar nature already exist between each of the undertakings parties to the agreement and other undertakings;
- 5.2.7 Indicate any other undertakings operating on markets affected by the agreement and/or any other agreements between undertakings affecting the same markets and specifying, where available, the market shares of these undertakings on each market.
- 5.2.8 State whether the undertakings parties to the agreement, and their parent and subsidiary undertakings, are active in markets neighboring the relevant market or markets upstream and/or downstream from those included in the relevant market for the agreement.

For each undertaking parties to the agreement indicated in section 1 provide:

- 5.2.9 A list of all other undertakings operating on the markets affected by the agreement, on which they hold, individually or jointly with other undertakings, 10 per cent or more of the share capital (5 per cent in the case of listed undertakings) or of the shares with voting rights, specifying the percentage held;
- 5.2.10 A list of the members of their boards of management who are also members of the boards of management of competing undertakings on the markets affected by agreement, naming those undertaking, the term of office and the functions of each.

SECTION 6

Description of potential competition

I. Market entry

- 6.1 Over the last five years, has there been any significant entry into any affected markets? If the answer is “yes”, where possible provide their name, address, telephone number, fax number and appropriate contact person, and an estimate of their current market shares.

- 6.2 In the opinion of the notifying parties are there undertakings (including those at present operating only in extra-Albanian markets) that are likely to enter the market? If the answer is “yes”, please explain why and identify such entrants by name, address, telephone number, fax number and appropriate contact person, and an estimate of the time within which such entry is likely to occur.
- 6.3 Describe the various factors influencing entry into affected markets that exist in the present case, examining entry from both a geographical and product viewpoint. In so doing, take account of the following where appropriate:

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

any legal or regulatory barriers to entry, such as government authorization, the exclusive availability of the production or of the distribution or standard setting in any form;

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;

the extent to which each of the parties to the agreement are licensees or licensors of patents, know-how and other rights in the relevant markets;

the importance of economies of scale for the production of products in the affected markets;

access to sources of supply, such as availability of raw materials.

II. Research and development

- 6.4 Give an account of the importance of research and development in the ability of a firm operating on 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 agreement.

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 agreement;
- b. the course of technological development for these markets over an appropriate time period (including developments in products and/or services, production processes, distribution systems, etc.);
- c. the major innovations that have been made in these markets and the undertakings responsible for these innovations;

- d. the cycle of innovation in these markets and where the parties are in this cycle of innovation.

II. Cooperative Agreements

- 6.5 To what extent do cooperative agreements (horizontal or vertical) exist in the affected markets?
- 6.6 Give details of the most important cooperative agreements engaged in by the parties to the agreement in the affected markets, such as research and development, licensing, joint production, specialization, distribution, long term supply and exchange of information agreements.

SECTION 7

Grounds for claiming that the agreement does not restrict competition

Indicate the reason why, according to the notifying parties, the object or effect of the agreements is not to prevent, restrict or distort competition on the market or on a substantial part of it.

SECTION 8

Grounds for requesting exemption from the prohibition of an agreement restricting competition

Indicate why and to what extent the agreement, while restricting competition, may nevertheless qualify for exemption from its prohibition, indicating in particular in which way the agreement:

contributes to improving the conditions of supply on the market;

brings substantial benefits to consumers.

Indicate whether these effects make the undertakings sufficiently competitive internationally and whether the effects are obtained by:

- a) increasing production,
- b) improving the quality of production,
- c) improving the quality of distribution, and
- d) technical or technological progress.

State the reasons why restrictions on competition are strictly necessary to attain the purposes referred to in the first paragraph above, and why these effects could not be achieved without this agreement.

SECTION 9

Supporting Documentation

The notification must be accompanied by the following documents:

- a) a copy of the final or latest version of all the documents relevant to the agreement;
- b) a copy of the balance sheets and profit and loss accounts of the past three financial years and, where available, of the annual reports, of all the parties to the notified agreement, together with the consolidated balance sheet of the group to which the parties to the agreement belong;
- c) a copy of any reports or analysis drafted for the purpose of the agreement, together with any documents, surveys or studies with respect to competitive conditions, competitors (actual and potential) and conditions on the affected markets relevant for the purpose of assessing the case;

The annexed documents may be submitted as originals or notarized copies.

SECTION 10

Declaration

Where notifications are signed by representatives of undertakings, such representatives must produce written proof that they are authorized to act. Such written authorization must accompany the notification.

The notification must conclude with the following declaration, which is to be signed by or on behalf of all the notifying parties:

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

They are aware of the provisions of Article 73, point 1, of the Laë.

Place and date:

Signatures:

Name/s:

On behalf of: