



**REPUBLIC OF ALBANIA**  
**-THE COMPETITION AUTHORITY-**  
**The Competition Commission**

No.\_\_\_\_ Prot.,.

Date : 14.10.2009

**DECISION**

**No. 126, Dated 08 .10. 2009**

**“On**

**Closing of the in-depth investigation into the enterprises that operate in the wheat import and flour production and sales market and relevant recommendations”.**

The Competition Commission, in its meeting held on 08.10. 2009, with the participation of:

- |                            |            |
|----------------------------|------------|
| ▪ Mrs. Lindita Milo (Lati) | Chairwoman |
| ▪ Mrs. Servete Gruda       | Member     |
| ▪ Mr. Koço Broka           | Member     |
| ▪ Mrs. Rezana Konomi       | Member     |

Discussed the following issue:

- Subject:**
- a) Closing of the in-depth investigation into the enterprises that operate in the wheat import and flour production and sales market;
  - b) Recommendations addressed to relevant institutions regarding issues that have been brought to evidence during the aforementioned investigation.

**Legal basis :** Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition”, as amended, Article 24, letters “d” and “f”, and Article 70, paragraph 2/  
Law No. 8485, dated 11. 11. 1999, titled “The Code of Administrative Procedures”,

The Competition Authority, in exercise of his legal functions, and motivated by the concern raised by manufacturers of bread, as well as the concern expressed in the media about the bread price increases in the beginning of the year 2008, took into

consideration and proceeded to make an evaluation of the level of competition in the affected markets.

The Competition Commission, upon reviewing the following documents:

- The report presented by the Working Group for the in-depth investigation in the wheat import and flour production market, launched through Decision No. 88, dated 02.10.2008, adopted by the Competition Commission;
- The report presented by the Secretary General;
- The claims of the enterprises "Atlas" Sh.a and "Bloja" Sh.a , expressed during the hearing session held on 27.2009, and submitted in writing to the Competition Authority, with Requisitions No. 287/1 dated 21. 07. 2009, No. 287/2 dated 21. 07.2009, No. 321 prot., dated 13. 08. 2009, and No. 323 Prot., dated 14. 08. 2009.

### **NOTED THAT:**

#### **I. THE PROCEDURE**

The procedure followed during the investigation is based on Chapter II and III of the IInd Part of Law No. 9121, dated 28.07.2003, titled "On the Protection of Competition", as amended (hereinafter referred as the "Law"), as well as Law No. 8485, dated 11.11.1999 titled "The Code of Administrative Procedures".

Pursuant to Article 24, letter "d" and Article 43, paragraph 1, of the Law, as well as Article 21, paragraph 4, of Regulation "On the functioning of the Competition Authority", and Decisions No. 88, dated 02.10.2008 No. 101, dated 05.02.2009, the Competition Commission decided: "The launching of in-depth investigation in the wheat import and flour production and sales market".

1. At the end of investigative procedures, the Secretariat has submitted the relevant report to the Competition Commission.
2. After the review of the aforementioned report, the Competition Commission noticed the existence of a prohibited agreement to in the market of wheat import and flour production and sales, between the companies "Atlas" sh.a. and "Bloja" sh.a. and through the adoption of Decision No. 113 dated 19/05/2009, decided to stop implementing this agreement, according the dispositions of the Law.
3. The decision as well as the report on the in-depth investigation was communicated to the enterprises "Atlas" sh.a. and "Bloja" sh.a. through requisition No. 228, dated 25.05.2009, signed by the Secretary General of the Competition Authority.
4. In implementation of Article 39 of 'Law "parties under investigation presented

their claims on report on the in-depth investigation in the course of the hearing session, in written form. Their claims have been taken into consideration by the Competition Commission.

## **II. PERIOD OF INVESTIGATION AND ENTERPRISES UNDER INVESTIGATION**

5. The investigation period, as determined by the Competition Commission through Decision No. 88, dated 02.10.2008 “On the launching of in-depth investigation in the wheat import and flour production and sales market”, is the period of time 01 January 2005 -31 August 2008.

6. The enterprises under investigation are determined in the Decisions No. 88 dated 02. 10. 2008 and No. 101 dated 05. 02. 2009 of the Competition Commission.

### ***a) Enterprises that are importers of wheat for purposes of bread production:***

- The company “Alagro” Shpk, with headquarters at the following address:: Bul “Zogu I” Tirana Biznes Center.
- The company “Alcor – Grain” Shpk, with headquarters at the following address:: Lagjja nr.4, Rruga Skënderbej, Kati IV.
- The company “GLAN” Shpk, with headquarters at the following address:: Xhafzotaj, Godinë -1 Katëshe, Përballë ish-Metalikes, Shijak, Durrës.
- The company “I.A.M” Shpk, with headquarters at the following address:: Xhafzotaj, Shijak, Durrës.
- The company “Shabani” Shpk, with headquarters at the following address:: Portëz, Fier.

### ***b) Enterprises that are importers of wheat and flour producers:***

- The company “Alb Mines Investment” Shpk, with headquarters in Muçaj, Vorë.
- The company “Atlas” Sha, with headquarters at the following address:: Rruga nacionale Tiranë – Durrës, Yrshek, Kashar.
- The company “Bloja” Sha, with headquarters at the following address:: Rruga e Kavajës, Tiranë.
- The company “Italy Agrofood” Shpk, with headquarters at the following address:: Rr: “K. Muco”, nr.25, Fier.
- The company “Mielli” Sha with headquarters at the following address:: Rruga e Kavajës, near Kombinatit Ushqimor, Tiranë.
- The company “Vilaznimi B” Shpk, with headquarters at the following address:: Lagjja nr.2, Kavajë.

---

<sup>1</sup> Respectively, Requisitions No. 287/1 dated 21. 07. 2009, No. 287/2 dated 21. 07.2009, No. 321 prot., dated 13. 08. 2009, and No. 323 prot., dated 14. 08. 2009.

**a. Enterprises that are only flour producers.**

- The company “Abduramani” Shpk, with headquarters in the village of Topojë, Fier.
- The company “Euromill Erina” Shpk, with headquarters at the following address:: ex N.P.A Elbasan.
- The company “ONIR” Shpk, with headquarters at the following address:: Lagjja ”Luigj Gurakuqi”, No. 16 Elbasan.
- The company “Skraqi” Shpk, with headquarters at the following address:: Lagjja ”Dyli Haxhire”, Elbasan.

**III. THE MARKET STRUCTURE**

7. Pursuant to Article 3, paragraph 7 of the Law and the Decision adopted by the Competition Commission No. 76, dated 07. 04. 2008 “On the approval of the guideline for the definition of relevant market”, the relevant market is defined as being composed of two elements:

8.

- a. The product market;
- b. The geographical market.

**III.1 The relevant product market**

9. The relevant product market includes:

- The wheat import market for flour production<sup>2</sup>;
- The market of production and sale of wheat destined for bread production.

The geographical market is the territory of the Republic of Albania.

**The market structure of wheat import:**

The wheat import market has the characteristics of a very concentrated market.<sup>3</sup>

10. The five main enterprises in the wheat import market are “Bloja”Sh.a, “Atlas”Sh.a, “Shoqëria Anonime Miell” Sh.a, “IAM” Shpk and “Glan”Shpk. The market shares<sup>4</sup> occupied by these enterprises (CR5) in the years 2005-2008 are, respectively, 95.66%, 95.37% 82.08% and 85.35%.<sup>5</sup>

---

<sup>2</sup> In the market analysis of imported wheat is not included the amount of imported wheat for cultivation purposes, and the imported wheat of type “Durum”, which is used for the production of pasta products.

<sup>3</sup> The concentration index in the year 2005 was 2191; in the year 2006 was 2351, in the year 2007 was 1545 and for the first eight-months of year 2008 this index was 1805.

<sup>4</sup> The calculation of market shares is done on the basis of data obtained by the General Customs Directorate.

<sup>5</sup> CR5 for the whole year 2008 was 82.7%, while HHI in the year 2008 was 1725.

### ***Submarket of wheat sale for bread production.***

11. During the years 2005-2006, the wheat market sale has been very concentrated.<sup>6</sup> From the analysis of market shares results that for the years 2005-2006, the five main competitors, i.e. “Bloja” Sh.a, “Alagro” Shpk, “Shoqëria Anonime Mielli” Sh.a, “IAM” Shpk and “Vllaznimi B” Shpk, together own 100% of the market.

12. In the year 2007, the main competitors in the market are the following enterprises: “Bloja” Sh.a, “IAM” Shpk, “Shoqëria Anonime Mielli” Sh.a, “ALAGRO” Shpk and “Vllaznimi B” Shpk, that aggregated occupy 90% of the market. During the first eight months of 2008, the value of CR5 is 78%, where the enterprises included are “Bloja” Sh.a, “Atlas” Sh.a, “Shoqëria Anonime Mielli” Sh.a, “IAM” Shpk and “GLAN” Shpk.

### ***The market of flour production and sale for bread production***

13. From the analysis of market shares for the years 2005-2006-2007 it can be noticed that the market share of the three main enterprises operating in the market (CR3) is rather high<sup>7</sup>; the three enterprises “Atlas” Sh.a, “Bloja” Sh.a and “Miell Tirana” Sh.a are the main enterprises operating in the market. In the year 2008, the enterprises “Atlas” Sh.a and “Bloja” Sh.a owned equal market shares of 25% each.

14. The three main enterprises operating in the flour sales market (CR3) are “Atlas” Sh.a, “Bloja” Sh.a and “Shoqëria Anonime Mielli” Sh.a., which cumulatively occupy XXX% of the market on the year 2005, XXX% of the market on the year 2006, XXX% of the market on the year 2007 and for the period January-August 2008, occupy XXX% of the market. The enterprises “Bloja” Sh.a. and “Atlas” Sh.a. retain the same market position during the period 2006-2008.

15. During the years 2005-2007 the flour production market has been very concentrated. The HHI index in the year 2005 was XXXX, following a decrease in the year 2006 and again falling to XXXX during the year 2007. The level of concentration has decreased from year to year by achieving a proportional share during the first eight months of the year 2008 between the enterprises “Bloja” Sh.a and “Atlas” Sh.a. However, the level of market concentration at XXXX in that year is still high.

---

6 The Herfindahl-Hirschmann (IHH) index is used specifically for measuring the market concentration, i.e. the scale at which a small number of undertakings occupy a great percentage of the product market. The HHI Index is used as a possible indicator of market power, or degree of competition between the undertakings. This index measures the degree of concentration in the market by summing up all the squared values of market share percentages of all the undertakings in the industry. The interpretation of the index is as follows: HHI < 1000 – not concentrated, 1000 < HHI < 1800 - moderately concentrated, HHI > 1800 – highly not concentrated. In the year 2005, the value of HHI index was 3142.7; in the year 2006 HHI was 3331.4; in the year 2007 HHI was 1841.9 and for the first eight-months of year 2008, the value of HHI index was 1469.4.

7 (Concentration rate 3) The cumulative amount of market shares occupied by the three biggest undertakings operating in the market. In the wheat sales market, CR3 is XXX % in the year 2005; XXX % in the year 2006; XXX % in the year 2007 and XXX % for the first eight-months of year 2008.

16. From the analysis of flour sales market market for bread production resulted that this market presents the character of an oligopolistic market with three enterprises with consolidated market shares during the years 2005-2008. The enterprises with market power are "Atlas"Sh.a, "Bloja" Sh.a. and "Shoqëria Anonime Mielli" Sh.a.

### **Entry barriers**

17. Enterprises with major effect on grain imports are also the largest producers of flour. This vertical integration of enterprises is a strong barrier to new entrants in the market, especially in the market of flour production.

18. The consolidated market position of the enterprises, the sustainability of market shares in years, experience or reputation, high technology and processing capabilities - all these factors create difficulties for a new entrance. For this reason, a new entry in this market requires a very big investment and the condition to be part of the vertical integration, as are the other enterprises, and must be able to secure the raw materials through imports, in order to be able to cope with market competition.

### **Countervailing power of buyers**

19. "Countervailing power" of customers is small, be that in the wheat sales market and in flour production market. Buyers of wheat (small mills) are enterprises obliged to provide their own raw materials to keep production lines at work, their employees and their flour clients. In their most part, these enterprises are mills, operating outside of Tirana and in their flour sales market they have as strong competitors the big flour enterprises of Tirana (which make business with wholesale vendors or distributors). The power of flour clients to countervail is smaller than that of the clients of wheat, as these (the bakers) are small businesses, many of which are unlicensed and what is more, they have debt obligations to the flour enterprises and are therefore obliged accept prices set by them.

### ***Analysis of Vertical Integration on the Wheat Market and the Flour Production Market***

19. From the analysis of the market structure of the wheat import market was found that the enterprises: "BLOJA" Sha, "ATLAS" Sha, "MIELL" Sha , "VLLAZNIMI B" Shpk, "ITALIA AGRIFOOD" Shpk, "ALB -MINES INVESTMENT" Shpk, operate in the wheat import market and the flour production and sales market. Therefore, these two enterprises are vertically integrated in both markets.

20. In a competitive market, vertical integration leads to lower costs and increased efficiency in the final product (flour market), which should lead also to the reduction of prices. But the analysis of the sale price of flour found that the integrated enterprises apply higher prices than non-integrated enterprises, so the integration has not lead to market efficiency, but rather created new barriers to entry in the relevant markets and has increased pressure on non-integrated enterprises that sell flour to work in low profit margins.

## **EVALUATION OF COMPETITION**

21. The wheat import market is an oligopolistic market, moderately concentrated, where the participating enterprises have consolidated positions and significant economic power. There are enterprises that have greater market power in the wheat sales market, and given that they possess flour processing industrial lines, those are the main enterprises in the flour sales market.

22. The flour sales market represents characteristics of an oligopolistic market with a high degree of concentration, with consolidated enterprises which own advanced technologies and are economically powerful, and which exert their activity within a local market.

21. As a result of the investigation it is certified the existence of an agreement between the enterprises "Bloja" Sh.a and "Atlas" Sh.a. and that fact has caused the restriction of competition in the market. By assessing this situation, i.e. the fact that these enterprises did not compete in the relevant market the agreement<sup>8</sup> between them was considered as prohibited as foreseen under Article 4, paragraph 1 of the Law. For these reasons, the Competition Commission adopted Decision No. 113, dated 19.05.2009, imposed a ban on this agreement. Later on, the Competition Commission assessed the effects of the agreement through Decision No. 125.

26. In the course of the investigation was noted the following:

1-The prices in the invoices do not reflect the real prices applied during the realization of the transactions.

2- There do not exist reasonable causes that an enterprise with significant market power has negative financial indicators.

3-The reference prices applied by the General Customs Directorate (in the cases when such prices were used) bring about the deformation of the real price of the occurred transactions.

All the above have an impact on the evaluation of competition performed by the Competition Authority on the market behaviour of the enterprises.

The Competition Commission, in assessing the overall market behavior of enterprises and the factors that affect such behaviour, is guided by the public interest in general, and the interests of the consumers in particular.

### **FOR THE ABOVE REASONS:**

The Competition Commission, pursuant to Article 24, letters "d" and "f", and Article 70, paragraph 2, of Law No.9121, dated 28.07.2003, titled "On the Protection of Competition", as amended,

---

<sup>8</sup> During the investigation resulted that the agreement for joint purchases were practiced also by the enterprises "Vilaznimi B" Shpk and "ITALIA AGRIFOOD" Shpk, but were not certified any resulting restrictions of competition in the market. Also, the enterprises "IAM" Shpk and "GLAN" Shpk, trade at different prices and do not refer to the same supplier, despite the fact that there are family relations between the respective owners.

**DECIDED:**

1. To close the the in-depth investigation into the wheat import and flour production and sales market launched through Decisions No. 88, dated 02.10.2008 and No. 101 dated 05.02.2009 of the Competition Commission.
2. To recommend the Ministry of Finance and the TGeneral Tax Directorate to review the practice of reference prices in the wheat import market for the purpose of potential effects that could bring restriction of competition in the market.
3. To recommend the General Tax Directorate that during the re-assessment practice should be taken into account the impact that they would have upon competition.
4. To recommend the Institute of Chartered Accountants to make sure that the in financial statements is clearly and accurately reflected the ownership and financial situation of the enterprises Atlas Sha dhe Bloja Sha, being the two enterprises withe great market power.
5. The Secretary General is in charge for the notification of the relevant institutions.

This decision takes effect immediately.

**THE COMPETITION COMMISSION**

**Servete Gruda**

**Rezana Konomi**

**Koço Broka**

( \_\_\_\_\_ )

( \_\_\_\_\_ )

( \_\_\_\_\_ )

**Member**

**Member**

**Member**

**Lindita Milo (Lati)**

**CHAIRWOMAN**