



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

**DECISION
No. 349 of 19 February 2015**

**“On
regulatory measures and recommendations in the market of International
maritime transportation of passengers and vehicles”**

The Competition Commission, composed of

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| ▪ Lindita Milo (Lati) | Chair |
| ▪ Servete Gruda | Member |
| ▪ Koço Broka | Member |
| ▪ Iva Zajmi | Member |
| ▪ Eduard Ypi | Member |

in its meetings of 22 January and 19 February 2015 reviewed the Case with:

Subject-matter: Reviewing the report on the preliminary inquiry into the market of International maritime transportation of passengers and vehicles.

Legal basis: Law No. 9121 of 28 July 2003 “On Competition Protection”—Articles 24 (d) and 26.
Law No. 8485 of 11 November 1999 “Administrative Procedure Code”.

After reviewing the report on preliminary inquiry into the international maritime passenger and vehicle transport market, submitted by the Secretariat of the Competition Authority, and the Competition Authority Secretary-General’s Report

THE COMPETITION COMMISSION HAS FOUND:

I. PROCEEDINGS:

1. The Competition Commission, with proposal from the Secretariat, and pursuant to Article 42(1) of Law no. 9121 of 28 July 2003 “On Competition Protection”, as amended, adopted Decision No. 316 of 23 May 2014 whereby it decided to open a preliminary inquiry into the market of International maritime transportation of passengers and vehicles.
2. The investigation period, as specified by the Competition Commission in the abovementioned decision, was from January 2013 till August 2014.

3. In order to collect the necessary facts and data in relation to the investigation, pursuant to Articles 33 and 34 of Law No. 9121 of 28 July 2003 “On Competition Protection”, data and information were requested from the Ministry of Transport and Infrastructure, port authorities, the National Licencing Centre and the undertakings operating in the market.
4. Pursuant to Articles 35 and 36 of Law No. 9121 of 28 July 2003 “On Competition Protection”, and Competition Commission Authorisation No. 245 of 26 May 2014 “Inspector Authorisation”, during the inquiry period the Inspection Team conducted inspections at the undertakings operating in the market, and also kept a record titled “Explanations on facts and documents related to the subject-matter and purpose of the Inspection” and a record titled “Undertaking inspection”.

II. COMPETITION ASSESSMENT

5. The service of passenger and vehicle transportation in the Republic of Albania is provided at three ports—Port of Durres, Port of Vlora and Port of Saranda.

II.1 Relevant Market

6. The maritime transportation of passenger with or without vehicles, with its regular and frequent lines, shows such specific characteristics as the regularity of service, pre-specified schedule and fares, which distinguish and separate this market from the shipping of goods.
7. This service provides connections from Albania to Italy—the Ports of Bari, Brindisi, Ancona and Trieste—and Greece—the Port of Corfu.
8. **The relevant product market is the international maritime transportation of vehicles and passengers carried out in the Port of Durres, Port of Vlora and Port of Saranda in the Republic of Albania towards ports in Italy and Greece.**
9. Based on the ferryboat line destinations and their substitutability on both the demand and supply sides, the relevant market is further subdivided into the following submarkets:
 - The submarket of the international maritime transport of passengers and vehicles in the Port of Durres to and from the Port of Bari in Italy;
 - The submarket of the international maritime transport of passengers and vehicles in the Port of Durres and Port of Vlora to and from the Port of Brindisi in Italy;
 - The submarket of the international maritime transport of passengers and vehicles in the Port of Durres to and from the Port of Ancona in Italy;
 - The submarket of the international maritime transport of passengers and vehicles in the Port of Durres to and from the Port of Bari and Port of Trieste in Italy;
 - The submarket of the international maritime transport of passengers and vehicles in the Port of Saranda to and from the Port of Corfu in Greece.

10. **The relevant geographic market consists of the seaports in the Republic of Albania where the transportation of goods and passengers is carried out.**

II.2. Market structure

11. Seven companies operate in the relevant market—i.e. the maritime transport of passenger and vehicles. They operate in three seaports in the Republic of Albania through their representative travel agents.
12. The submarket of the maritime transport of passengers and vehicles in the Port of Durres to and from the Port of Bari in Italy was shared by three main operators in 2013, followed by a new entrant in 2014. The assessment of the market shares in that submarket shows that the main operator AFH S.p.a, which is represented by the maritime agent Adria Ferries, held a share of 47-48% of total passengers and vehicles, followed by Nobel Maritime, as represented by the maritime agent Duni Port Agency Shpk. As shown by the concentration index, this submarket is very concentrated.
13. The submarket of the international maritime transport of passengers and vehicles in the Port of Durres to and from the Port of Ancona and Port of Trieste in Italy is held by a single operator—AFH S.p.a, as represented by the maritime agent Adria Ferries.
14. The submarket of the international maritime transport of passengers and vehicles in the Port of Durres and the Port of Vlora to and from the Port of Brindisi is held by a single operator—Northbay Lda, as represented by Gerverni Travel shpk in the Port of Vlora and the maritime agent Euroferries shpk in the Port of Durres.
15. The submarket of the international maritime transport of passengers and vehicles in the Port of Saranda to and from the Port of Corfu in Greece is shared by three operators, with Fly Dolphyns/Iva shpk holding about 32% of the passenger market and 57% of the vehicle market. Operator Marina Maritime/Iva Shpk held about 44% of the passenger market, and a new operator, Rena S/Pirro 77, held about 24% of the passenger market and 43% of the vehicle market in January-August 2014.
16. There was an increase in the number of operators providing their service in the relevant market in the period January-August 2014. **Ena Shipping**, as represented by the maritime agent **Altea Shpk**, began operations in the Durres-Bari line in June 2014. Also, **Rena S**, as represented by the maritime agent **Pirro 77 Shpk**, began operations in the Saranda-Corfu line in April 2014.
17. With reference to the above, there was an increase in the number of operators providing their services in the Durres – Bari – Durres and Saranda – Corfu – Saranda submarkets. There were no new entrants in the Durrës/Vlora - Trieste and Durres-Ancona-Trieste submarkets, where a single operator provides its services. Those submarkets, therefore, have a solidified structure.

III.MARKET REGULATION

18. Pursuant to Article 8 of Law No. 9251 of 8 July 2004 “The Maritime Code of the Republic of Albania”, as amended, the maritime transportation of people and goods is considered a maritime activity. The Maritime Code of the Republic of Albania is intended to govern the legal, economic and social relations in the area of seafaring, introducing rules on the rights and obligations of entities operating maritime activities and having legal responsibilities in the maritime space.
19. Under Council of Ministers’ Decree No. 421 of 15 May 2013 “On some amendments to CMD No. 538 of 26 May 2009 On licenses and permits handled by or through the National Licensing Centre (NLC) and other common sublegal arrangements”, as amended, licences to carry out the business of international maritime transportation of vehicles and/or passengers are issued through the NLC, but only after submission of an inspection record and preliminary evaluation of the technical documentation of the vessel which is carried out by the Maritime Directorate General, and submission of a list of the vessel documentation.
20. In the context of regulating, disciplining, monitoring and facilitating the activities carried out or sought to be carried out by legal persons in the area of maritime transportation and further integrating them into the European market of maritime transportation, the Minister of Public Works and Transport issued Instruction No. 10 of 23 June 2008 “On the criteria and procedures for granting, suspending and revoking operation permits in the area of maritime transportation”, as amended.
21. The Instruction lays down the requirements and procedures for issuing, suspending and revoking operation permits to legal entities seeking to operate in the area of maritime transportation, and is mandatory for all legal entities operating in the area of maritime transportation.
22. In 2013 the licences to operate in the international maritime transportation of passengers and vehicles were issued by the MPTT, after the undertakings had submitted, inter alia, a list of travel fares to be applied to the services they provided, broken down into fare class for passengers and size for vehicles. In addition, the fares were classified by peak and off season, and were linked to the routes, timetables and days of travel.
23. In 2014, following the amendments to the legislation, licences to operate in the international maritime passenger and vehicle market were issued by the National Licencing Centre, after the undertakings applied with that institution. Based on the documentation required by the National Licencing Centre to issue the licences, it was found that the undertakings were not required to declare in advance the tariffs they would be applying in 2014 regarding the service that they would provide, a practice which differed from 2013 when those tariffs were approved by the MPTT and were attached to the licence.
24. The failure to set the tariffs to be applied during the year makes it difficult to check and supervise the tariffs that the undertaking apply to the services they provide, especially given that tickets in the maritime transportation of passengers and

vehicles are sold by agencies across Albania and abroad, not to mention online selling.

25. Given the method of ticket selling and operation of the undertakings in the market, which are not registered in the Republic of Albania despite operating in the territory of the Republic of Albania, it is difficult to supervise them in relation to the tariffs applied to passengers and vehicles they transport to and from the Republic of Albania.
26. This difficulty in the collection of information was present in this investigation, too, because, as shown in the letters from the undertakings, they could not access the daily tariffs applied in the past years because the software they used to sell the tickets did not produce this information. In some of the undertakings the information on the applied tariffs showed only the ticket fare but not the ticket class or vehicle length, which made it difficult to assess the applied tariffs.
27. The collected information on the method of data keeping by the licensees did not provide the adequate degree of clarity on the tariffing policy which was necessary to assess the market behaviour of the undertakings. In addition, the information did not enable an assessment of the legal compliance with the maximum tariffs set by the Ministry of Transport.

FOR THESE REASONS:

The Competition Commission, pursuant to Articles 24 (d), 45 and 70 of Law No. 9121 of 28 July 2003 "On Competition Protection", and Article 4 (9) (a) of the Regulation on the Competition Authority investigative procedures,

HAS DECIDED:

To recommend the following to the Ministry of Transport and Infrastructure:

1. Require the undertakings operating in the market to keep daily data on the applied tariffs for each ticket sold, and to keep the ticket sale records for a period of at least three years;
2. The data should be accessible at any time for the licensing institutions and market supervisors;
3. Approve the maximum tariffs to be applied under each category of journey for each season, when licensing them;
4. Supervise the tariffs applied by the undertakings in comparison with the approved maximum tariffs;
5. Draft a methodology based on the real costs in order to set the level of maximum tariffs for the international maritime transportation of passengers and vehicles.

6. The preliminary inquiry into the market of International maritime transportation of passengers and vehicles is hereby concluded.
7. The Secretariat shall monitor the market in accordance with the provisions of this Decision and the measures taken by the Ministry of Transport and Infrastructure.
8. The Secretary General shall notify this Decision.

This Decision shall enter into force immediately.

COMPETITION COMMISSION

Servete GRUDA

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Deputy Chair

Koço BROKA

(_____)
Member

Iva ZAJMI

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Member

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Lindita MILO (LATI)

CHAIRPERSON