



REPUBLIC OF ALBANIA
-COMPETITION AUTHORITY -
Competition Commission

No. ___ Prot.

Dated : 19/ 05 / 2009

DECISION

No. 113, dated 19.05.2009

“On
“the prohibition of the agreement in the wheat import and flower
production market entered between the undertakings “Atlas” Sh.a. and
“Bloja” Sh.a.”

The Competition Authority, in its meeting held on 19.05.2009, with the participation of:

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

Discussed the following issue :

Subject: Review of the in-depth investigation report in the wheat import and flower production market.

Legal basis : Article 4, paragraph 1, letters “a”, “b” and “c”, Article 24, letter “d”, Article 45, of Law No. 9121, dated 28.07.2003, titled “On the Protection of Competition”;

The Competition Commission, after reviewing the Report prepared by the Working Group on the investigation, launched on the basis of Decision No. 88, dated 02.10.2008 of the Competition Commission, as well as the report prepared by the Secretary General:

NOTED THAT:

From the report prepared by the Secretary General on the in-depth investigation report in the wheat import and flower production market, results that two of the undertakings under investigation, “Atlas” Sh.a. and “Bloja” Sh.a.”:

1. Maintain complete data on imports effectuated by each of the respective undertakings;
2. Conduct joint purchasing, but the statement made in the customs office is done on behalf of one undertaking;

3. Share the costs of customs, transport costs and other expenses at a 50-50 rate.
4. Maintain accurate data on bilateral obligations (cashing and debtor and conditions) of each other, the amount of wheat purchased and customs costs.
5. Together own 50.24% of the wheat import market, 34.67% of the wheat sale market, 50% of the flour production market (25% by Atlas and 25% by Bloja), technology and high processing capacity, making a powerful factor that restricts the free and effective competition in the market.
6. Have sufficient market power to restrict competition. The degree of concentration of these two companies is high; the counteractive force of all the other competitors is smaller than the power of the enterprises Bloja sh.a. and Atlas sh.a., the counteractive force of the clients (small mills and bread manufacturers) is small.
7. The behavior of the undertakings in the market should comply with free and effective competition.

Based on the above, the evaluation of the behavior of these undertakings in the market certifies the existence of coordinated practices, which, in the meaning of Law No. 9121, dated 28.07.2003, "On protection of competition", Article 3, paragraph 4, is considered as being an agreement.

Based on Article 4 of Law No. 9121, dated 28.07.2003, "On protection of competition", this agreement is considered prohibited agreement, and falls in conflict with paragraph 1, letters "a", "b" and "c" of this article, because it directly sets retail prices for flour, restricts and controls the sales market for wheat and flour production, and divides the flour sales market, thus limiting significantly competition in the market.

FOR THESE REASONS:

The Competition Commission, pursuant to Article 24, letter "d", and Article 45, paragraph 1, of Law No. 9121, dated 28.07.2003, titled "On the Protection of Competition".

DECIDED:

1. To prohibit the agreement in the wheat import and flower production market entered between the undertakings "Atlas" Sh.a and "Bloja" Sh.a., on the grounds of it being a prohibited agreement in the meaning of Article 4 of Law No. 9121, dated 28.07.2003, titled "On the Protection of Competition".
2. The Secretary General is in charge to communicate such decision to the parties.

This decision enters into effect immediately.

THE COMPETITION COMMISSION

Servete Gruda
(_____)
Member

Rezana Konomi
(_____)
Member

Koço Broka
(_____)
Member

Lindita Milo (Lati)

CHAIRWOMAN