

# MERGER NOTIFICATION AND PROCEDURES TEMPLATE

## SLOVENIAN COMPETITION PROTECTION AGENCY

AUGUST 2015

Website: <http://www.varstvo-konkurence.si/>

**IMPORTANT NOTE:** This template is intended to provide background on the jurisdiction's merger notification and review procedures. Reading the template is not a substitute for consulting the referenced statutes and regulations.

[PART 1: LEGISLATION, GUIDELINES AND JURISDICTION \(Questions 1 – 4\)](#)

[PART 2: PRE-NOTIFICATION, NOTIFICATION AND DECISION \(Questions 5 – 14\)](#)

[PART 3: CONFIDENTIALITY, TRANSPARENCY AND INTERAGENCY MERGER COOPERATION \(Questions 15 – 17\)](#)

[PART 4: SANCTIONS \(Question 18\)](#)

[PART 5: POST-REVIEW MATTERS/JUDICIAL REVIEW \(Questions 19 – 23\)](#)

| QUICK LOOK SUMMARY                                  |   |
|---|---|
| <b>Mandatory or voluntary regime?</b>               | <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Voluntary  |
| <b>Power to review non-notifiable transactions?</b> | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No   |
| <b>What are the time limits for review?</b>         | Initial review / Phase I<br><input type="text" value="25 working days"/> Extended review / Phase II<br><input type="text" value="60 working days"/>   |
| <b>Substantive merger test?</b>                     | <input checked="" type="checkbox"/> Dominance <input checked="" type="checkbox"/> Significant impediment to effective competition<br><input type="checkbox"/> Substantial lessening of competition <input type="checkbox"/> Other<br><input type="text"/> |

## PART 1: LEGISLATION, GUIDELINES AND JURISDICTION

### 1. Legal authority and guidance: Merger notification and review

(please provide title(s), popular name(s), effective date and citation(s)/web address)

#### Statutory law

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| A. Notification provisions   | <p><i>PREVENTION OF THE RESTRICTION OF COMPETITION ACT</i><br/>(ZPOMK-1), (Official Gazette RS No. 36/08, 40/09, 26/11, 87/11, 57/12, 39/13 Odl.US: U-I-40/12-31 and 63/13-ZS-K and 33/2014); hereinafter: the Competition Act; §10,11, 42-53;<br/><a href="http://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/ZPOMK-1-EN_consolidated_2013.pdf">http://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/ZPOMK-1-EN_consolidated_2013.pdf</a></p> <p><i>GENERAL ADMINISTRATIVE PROCEDURE ACT</i><br/>Available on the homepage: <a href="https://www.uradni-list.si/">https://www.uradni-list.si/</a><br/>(in Slovenian language only)</p> <p><i>MINOR OFFENCES ACT</i><br/>Available on the homepage: <a href="https://www.uradni-list.si/">https://www.uradni-list.si/</a><br/>(in Slovenian language only)</p> |
| B. Substantive merger review provisions  | <p><i>The Competition Act; §10,11, 42-53; <a href="http://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/ZPOMK-1-EN_consolidated_2013.pdf">http://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/ZPOMK-1-EN_consolidated_2013.pdf</a></i></p>  |
| C. Implementing regulations  | None.  |
| D. Notification forms or information requirements  | <p><i>“Decree defining the contents and elements required for the notification form for the concentration of undertakings” (Official Gazette of the Republic of Slovenia, No. 36/2009 and 3/2014):</i><br/><a href="http://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/Decree.pdf">http://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/Decree.pdf</a></p>   |
| <b>Agency guidance</b>   |  |
| E. Guidance on merger notification process (e.g., regarding the calculation of thresholds, etc.) | <p>Answers to frequent questions (in Slovenian language only):<br/><a href="http://www.varstvo-konkurence.si/medijsko-sredisce/pogosta-vprasanja/">http://www.varstvo-konkurence.si/medijsko-sredisce/pogosta-vprasanja/</a></p>   |
| F. Guidance on substantive   | None.  |

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| <b>assessment in merger review</b>  |       |
| <b>G. Guidance on merger remedies</b>   | None. |
| <b>H. Guidance on the submission of information, especially regarding economic evidence or data, or electronic information</b>  | None. |
| <b>I. Guidance or statements regarding the treatment of confidential information and/or domestic laws/regulations on third-party or public access to information provided during the review process (e.g., transparency regulations or freedom of information provisions)</b> | None. |
| <b>J. Guidance on pre-notification consultations</b>  | None. |
| <b>K. Other relevant notices, policy statements, interpretations, rules, or guidance on aspects of merger review or the agency's decision-making process</b>  | None. |
| <b>L. If available, please provide a link to statistics on annual notifications received, clearances, prohibitions etc.</b>   | N/A   |

| <b>2. Agency or agencies responsible for merger enforcement</b>   |  |
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| <b>A. Name of agency. If there is more than one agency, please describe allocation of responsibilities.</b> | <b>SLOVENIAN COMPETITION PROTECTION AGENCY</b><br>(hereinafter: CPA)                           |
| <b>B. Address, telephone and fax (including country code), e-mail, website address and</b>                  | Dunajska 58, SI – 1000 Ljubljana,<br>Slovenija<br><br>T: +386 1 478 35 97, F: +386 1 478 36 08 |

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| languages available.  | e-mail: <a href="mailto:gp.avk@gov.si">gp.avk@gov.si</a><br>website: <a href="http://www.varstvo-konkurence.si">http://www.varstvo-konkurence.si</a> |
| C. Agency contact information for jurisdiction/filing guidance (including possible pre-notification consultations). | T: +386 1 478 35 97, F: +386 1 478 36 08<br>e-mail: <a href="mailto:gp.avk@gov.si">gp.avk@gov.si</a>   |

### 3. Jurisdiction: Covered transactions

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| A. Definitions of potentially covered transactions ( <i>i.e.</i> , share acquisitions, asset acquisitions, mergers, demergers and combinations such as consolidations, amalgamations and joint ventures) | Concentration is involved in lasting changes of control over an undertaking, namely: <p>a) when two or more previously independent undertakings or parts of undertakings merge; or</p> <p>b) when one or more natural persons already controlling at least one undertaking, or one or more undertakings, acquire, whether by purchase of securities or assets, by contract or by any other means, direct or indirect control of the whole or parts of one or more other undertakings; or</p> <p>c) when two or more undertakings create a joint venture performing on a lasting basis all the functions of an autonomous economic entity.</p> |
| B. If change of control is a determining factor, how is control defined and interpreted in practice?   | Control over an undertaking shall be constituted by rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or regulations involved, confer the possibility of exercising decisive influence on such undertaking or part of undertaking, in particular by: <ul style="list-style-type: none"> <li>- ownership or the right to use all or part of the assets of an undertaking; or</li> <li>- rights or contracts which confers decisive influence on the structure, voting or decisions of the governing bodies of an undertaking.</li> </ul>                         |
| C. Are partial (less than 100%) interests/minority shareholdings covered? At what levels?  | Yes, when the acquiring company has a possibility of exercising decisive influence. Control most often results from the acquisition of the majority of the voting rights (50 %+ 1 share). In the case of a minority interest, shareholding control can be acquired on the de jure basis (e.g. special rights are attached to the minority shareholding) or on the de facto basis (achieving majority at the shareholders meeting, given that the remaining shares are dispersed).   |
| D. If the notification requirements cover joint ventures, what types of joint venture are  | The notification requirements cover joint ventures, given that a joint venture is or will be performing all of its functions on a lasting basis as an autonomous economic entity. Any type of joint   |

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| covered (e.g., production joint ventures)? | venture is covered. |
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#### 4. Jurisdiction: Thresholds for notification

##### Key threshold information

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| <p><b>A. What are the thresholds for notification? If the thresholds are subject to adjustment, state on what basis and how frequently (e.g., for inflation, annually)</b></p>                                  | <p>The CPA must be notified of a concentration where in the business year preceding the concentration:</p> <ul style="list-style-type: none"> <li>• the combined turnover of the undertakings concerned (including undertakings belonging to the same group) exceeded €35 million in Slovenia; and</li> <li>• either the turnover of the undertaking acquired (i.e., the target), including undertakings belonging to the same group, exceeded €1 million in Slovenia; or in the case of the creation of a full-function joint venture, the turnover of at least two undertakings concerned (including undertakings belonging to the same group) exceeded €1 million in Slovenia.</li> </ul> <p>Even where these turnover thresholds are not met, the undertakings concerned are obliged to inform the CPA of the implementation of a concentration, if they represent a combined market share of more than 60 per cent in Slovenia. The CPA may then request a notification of the concentration within 15 days following the date on which the undertakings concerned informed the CPA (article 42(3) of the Competition Act).</p> <p>The undertaking or undertakings concerned are the merging undertakings, the undertaking gaining control over another undertaking (i.e., the acquirer), the acquired undertaking (target), and undertakings creating a notifiable joint venture.</p> <p>Concentrations falling within the jurisdiction of the European Merger Control (Regulation 139/2004/EC) are not subject to the Slovenian merger control regime ('one-stop shop' principle).</p> |
| <p><b>B. How is the nexus to the jurisdiction determined (e.g., sales or assets in the jurisdiction)?</b></p> <p><b>If based on an "effects doctrine," please describe how this is applied in practice.</b></p> | <p>The nexus to the jurisdiction is determined by the sales or assets on the market of the Republic of Slovenia. It is based on the effect doctrine; import sales are sufficient to meet an "effect test".</p>  |
| <p><b>C. Can a single party trigger the notification threshold (e.g., one party's sales, assets, or market share)?</b></p>  | <p>No, see questions 3 A and 4 A above.</p>   |
| <p><b>D. Are any sectors excluded from notification requirements? If</b></p>  | <p>No.</p>  |

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| so, which sectors?   |  |
| E. Are there special rules or exceptions/exemptions regarding jurisdictional thresholds for transactions in which both the acquiring and acquired parties are foreign (foreign-to-foreign transactions)?   | No.  |
| F. Does the agency have the authority to review transactions that fall below the thresholds or otherwise do not meet notification requirements? If so what is the procedure to initiate a review?  | Yes. Even where turnover thresholds are not met, the undertakings concerned are obliged to inform the CPA of the implementation of a concentration, if they represent a combined market share of more than 60 per cent in Slovenia. The CPA may then request a notification of the concentration within 15 days following the date on which the undertakings concerned informed the CPA (article 42(3) of the Competition Act).  |
| <b>Calculation guidance and related issues</b>   |  |
| <p>G. If thresholds are based on any of the following values, please describe how they are identified and calculated to determine if notification is required:</p> <ul style="list-style-type: none"> <li>(i) the value of the transaction</li> <li>(ii) the relevant sales or turnover</li> <li>(iii) the relevant assets</li> <li>(iv) market shares</li> <li>(v) other (please describe)</li> </ul> | <p><b>(ii) Thresholds are based on the relevant sales or turnover:</b></p> <ul style="list-style-type: none"> <li>- the total annual turnover of the undertakings involved in a concentration, together with other undertakings in the group, <b>on the market of the Republic of Slovenia</b> in the preceding business year exceeded EUR 35 million, and</li> <li>- the annual turnover of the acquired undertaking, together with other undertakings in the group, <b>on the market of the Republic of Slovenia</b> in the preceding business year exceeded EUR 1 million; or if in the case referred to in the third indent of the first paragraph of Article 10 of this Act the annual turnover of at least two undertakings concerned in a concentration, together with other undertakings in the group, in the preceding business year exceeded EUR 1 million.</li> </ul> <p>For the purpose of turnover calculation, the net revenues from the sale of products and the provision of services in Slovenia have to be taken into account. Turnover generated by sales or services between companies belonging to the same group is not taken into account. Where the concentration consists in the acquisition of control in a part of one or more undertakings, regardless of whether these parts qualify as a legal entity, only the turnover relating to the parts that are subject to the concentration are taken into account for the purpose of turnover calculation. Two or more transactions that take place within a two-year period between the same persons or undertakings are treated as one and the same concentration arising on the date of the last transaction.</p> <p><b>(v) other (please describe)</b><br/> Specific rules apply to the calculation of the turnover of credit and financial institutions where the financial income from shares, loans granted and operating receivables has to be taken into account. With regard to insurance companies, the amount of the</p> |

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|  | <p>gross premiums written is relevant, comprising all revenues and receivables from insurance contracts, including reinsurance premiums paid, after the deduction of taxes or contributions associated with insurance premiums.</p>   |
| <p>H. Which entities are included in determining relevant undertakings/firms for threshold purposes?</p> <p>If based on control, how is control determined for notification purposes?</p>  | <p>In principle a concentration shall be deemed to arise where a change of control on a lasting basis results from:</p> <ul style="list-style-type: none"> <li>- the merger of two or more previously independent undertakings or parts of undertakings, or</li> <li>- the acquisition, by one or more natural persons already controlling at least one undertaking, or by one or more undertakings, whether by purchase of securities or assets, by contract or by any other means, of direct or indirect control of the whole or parts of one or more other undertakings, or</li> <li>- the creation of a joint venture by two or more independent undertakings, performing on a lasting basis all the functions of an autonomous economic entity.</li> </ul> <p><b>Control</b> of a whole undertaking or a part of it within the meaning of the preceding paragraph shall be constituted by rights, contracts or any other means that, either separately or in combination and having regard to the considerations of facts or regulations involved, confer the possibility of exercising decisive influence on such an undertaking or part of undertaking, in particular:</p> <ul style="list-style-type: none"> <li>- ownership or the right to use all or part of the assets of an undertaking;</li> <li>- rights or contracts that confer a decisive influence on the composition, voting or orders of the bodies of an undertaking.</li> </ul> <p><b>Control</b> is acquired by persons or undertakings that:</p> <ul style="list-style-type: none"> <li>- are holders of rights or entitled to rights under the contracts concerned; or</li> <li>- while not being holders of such rights or entitled to rights under such contracts, have the power to exercise the rights deriving from contracts.</li> </ul> <p>Relevant undertakings for the threshold purposes are specified in Article 42 of the Competition Act; all the undertakings concerned, including connected undertakings, are included within the same group. Connected undertakings shall include the acquired, controlled, controlling and group undertakings of the parties of the concentration.</p> |
| <p>I. Are there special threshold calculations for particular sectors (e.g., banking, airlines, media) or particular types of transactions (e.g., joint ventures, partnerships, financial investments)? If yes, for which sectors and types of transactions?</p> | <p>The Competition Law stipulates the following special provisions (Article 10(4)):</p> <p>A concentration shall not be deemed to arise when banks, insurance companies, savings institutions or other financial institutions, the normal activities of which include transactions and dealing in securities for their own account or for the account of others, hold on a temporary basis business assets that they have acquired in an undertaking with a view to reselling them, provided that they do not exercise voting rights in respect of those business assets with a view to determining the competitive behaviour of that undertaking or provided that they exercise such voting rights only with a view to preparing the disposal of these business assets and that any such disposal takes place within one year of the date of acquisition of these business assets. The period of one year may be extended by order of the Agency on request when the undertaking can show that the disposal was not</p>  |

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|   | reasonably possible within the prescribed period. No judicial protection shall be allowed against such an order.  |
| J. Describe the methodology for calculating exchange rates. | There is no need to calculate exchange rate because the relevant condition is total annual sale of undertakings participating in the concentration on the market of the Republic of Slovenia. |

**PART 2: PRE-NOTIFICATION, NOTIFICATION AND DECISION**

| 5. Pre-notification   |     |
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| A. If applicable, please describe the pre-notification procedure (e.g., time limits, type of guidance given etc.)         | N/A |
| B. If applicable, what information or documents are the parties required to submit to the agency during pre-notification? | N/A |

| 6. Notification requirements and timing of notification  |  |
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| A. Is notification...  | <input checked="" type="checkbox"/> <b>Mandatory pre-merger</b> <input type="checkbox"/> Mandatory post-merger<br><input type="checkbox"/> Voluntary                                 |
| B. If parties can make a voluntary merger filing when may they do so?  | Not applicable   |
| C. What is the earliest that a transaction can be notified (e.g., is a definitive agreement required; if so, when is an agreement considered definitive?)? | The transaction can be notified as a forthcoming concentration at any time, provided that the proposed or expected date of concentration is clearly indicated.                       |
| D. When must notification be made? If there is a triggering  | A concentration shall be notified to the CPA prior to its implementation but not later than 30 days after the conclusion of the contract, the announcement of the public bid, or the |



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| <p><b>event, describe the triggering event (e.g., definitive agreement) and the deadline following the event. Do the deadline and triggering event depend on the structure of the transaction? Are there special rules for public takeover bids?</b></p> | <p>acquisition of a controlling interest. That period shall begin when the first of these events occurs.</p> <p>Public takeover bids are primarily monitored by the Slovenian Security Market Agency and subject to the provisions of the Slovenian Act on Takeovers. The CPA has to be informed of the intended public bid by a simple written notice on the day such intention is published. Also, the CPA must be provided with the bid documents.</p> <p>Public takeovers which lead to notifiable concentrations within the meaning of the Competition Act require the submission of a merger notification to the CPA no later than 30 days after the announcement of the public bid.</p> |
| <p><b>E. If there is a notification deadline, can parties request an extension for the notification deadline? If yes, please describe the procedure and whether there is a maximum length of time for the extension.</b></p>                             | <p>No.</p>   |
| <p><b>F. Are parties allowed to submit information beyond what is required in the initial filing voluntarily (e.g., to help narrow or resolve potential competitive concerns)?</b></p>   | <p>The parties to the concentration may also provide other information, which they consider necessary for a comprehensive assessment of the concentration.</p>   |

## 7. Simplified procedures

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| <p><b>A. Describe any special procedures for notifying transactions that do not raise competition concerns (e.g., short form, simplified procedures, advanced ruling certificates, discretion to waive certain information requirements, etc.).</b></p> | <p>Slovenian Competition Law does not provide for any kind of simplified procedure. However, Article 5 of the Decree provides that upon notifying a concentration, the parties to the concentration may apply for a waiver from the Agency not to fill in particular items of the form if they consider these data unnecessary for a correct and complete notification of a concentration.</p> |
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## 8. Information and documents to be submitted with a notification

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| <p><b>A. Describe the types of documents that parties must submit with the notification (e.g., agreement, annual reports, market studies,</b></p> | <p>Notifying parties are obliged to submit the following:</p> <ul style="list-style-type: none"> <li>- audited accounting statements of the participants to the concentration for a minimum of the preceding three tax years; if a participant is not obliged to audited accounting statements,</li> </ul> |
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| <p><b>transaction documents, internal documents).</b></p>  | <p>regular accounting statements are to be submitted;</p> <ul style="list-style-type: none"> <li>- copies of the final or most recent versions of all documents bringing about the concentration, whether by agreement between the parties to the concentration, acquisition of a controlling interest or a public bid;</li> <li>- a public bid, a copy of the offer document; if it is not available at the time of notification, it should be submitted as soon as possible and not later than when it is posted to shareholders;</li> <li>- copies of the most recent annual reports and accounting statements of all the parties to the concentration;</li> <li>- copies of analyses, reports, studies and surveys submitted to or prepared for any member(s) of the board of directors, the supervisory board, or the shareholders' meeting, for the purpose of assessing or analysing the concentration with respect to competitive conditions, competitors (actual and potential), and market conditions.</li> </ul> |
| <p><b>B. Is there a procedure for obtaining information from target companies in the case of hostile/ unsolicited bids?</b></p>  | <p>No.</p>  |
| <p><b>C. Are there any document legalization requirements (e.g., notarization or apostille)? What documents must be legalised?</b></p>   | <p>No.</p>  |
| <p><b>D. What is the agency's practice regarding exemptions from information requirements (e.g. information submitted or document legalization) for transactions in which the acquiring and acquired parties are foreign (foreign-to-foreign transaction)?</b></p> | <p>N/A</p>  |
| <p><b>E. Can the agency require third parties to submit information during the review process? Can third parties voluntarily submit information or otherwise contact the agency to intervene?</b></p>  | <p>CPA may, in the course of the proceedings, approach third parties (e.g. competitors) on its own initiative, in particular via written requests for information.</p> <p>Third parties that are able to demonstrate their legally recognised interest may lodge an application for participation in the proceedings. Such request needs to be filed with the CPA within 30 days from the publication of the initiation of proceedings. If participation in the proceedings is granted, the third party may take part in the entire proceedings, receive access to the file,</p>  |

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|  | <p>lodge statements and opinions and, ultimately, challenge the final decision issued by the CPA.</p> <p>Apart from the above, any third parties, even without formally joining the proceedings, may submit comments and statements to the CPA at any stage of the Phase I and II proceedings. Although the CPA is not legally obligated to consider such information, it usually takes it into account when assessing the case.</p> |
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## 9. Translation

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| <p><b>A. In what language(s) can the notification forms be submitted?</b></p>   | <p>The notification forms and all relevant annexes must be submitted in Slovenian language.</p>   |
| <p><b>B. Describe any requirements to submit translations of documents:</b></p> <p><b>(i) with the initial notification; and</b></p> <p><b>(ii) later in response to requests for information.</b></p> <p><b>In addition:</b></p> <p><b>(iii) what are the categories or types of documents for which translation is required;</b></p> <p><b>(iv) what are the requirements for certification of the translation;</b></p> <p><b>(v) which language(s) is/are accepted; and</b></p> <p><b>(vi) are summaries or excerpts allowed in lieu of complete translations and in which languages are summaries accepted?</b></p> | <p>According to the provisions of “<i>General Administrative Procedure Act</i>” (Art. 62), the procedure shall be conducted in the Slovenian language. In this language applications shall be filed, decisions, orders, records, official notes and other writings written, and all procedural acts performed.</p> <p>Consequently, the notification forms and all documents attached thereto need to be submitted in the Slovenian language. Documents based on which the concentration takes place must be provided in certified copies; all other documents attached to the filing may be provided in simple copies.</p> |

## 10. Review periods

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| <p><b>A. Describe any applicable review periods following notification.</b></p> | <p>The CPA decides in Phase I proceedings if the concentration does not raise serious doubts as to its compatibility with Competition Law. The CPA then must issue its decision within 25 working days of the receipt of a complete notification.</p> |
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|   | <p>In cases that raise serious doubts as to their compatibility with the Slovenian competition law rules, the CPA initiates Phase II proceedings within 25 working days from the receipt of a complete notification. Once the CPA has initiated Phase II, it must issue a decision within 60 working days from initiating such proceedings.</p> <p>If the parties propose remedies, the deadline for issuing the Phase I or II decision is extended by an additional 15 working days.</p> |
| <b>B. Are there different rules for public tenders (e.g., open market stock purchases or hostile bids)?</b>   | No.   |
| <b>C. What are the procedures for an extension of the review periods, if any? Do requests for additional information suspend or re-start the review period?</b> | <p>There are no provisions or procedures available to extend the review period.</p> <p>The deadline for issuing the order on the commencement of the procedure shall be suspended while the party is in arrears with its reply to the request to provide the information.</p>   |
| <b>D. Is there a statutory or other maximum duration for extensions?</b>  | N/A   |
| <b>E. Does the agency have the authority to suspend review periods? Does suspending a review period require the parties' consent?</b>                           | No.   |
| <b>F. What are the time periods for accelerated review of non-problematic transactions, if any?</b>   | N/A   |
| <b>G. What is the procedure for offering and assessing remedies and how does this impact the timing of the review?</b>  | If the parties propose remedies, the deadline for issuing the Phase I or II decision is extended by an additional 15 working days.  |

## 11. Waiting periods / suspension obligations

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| <b>A. Describe any waiting periods/suspension obligations following</b> | The intended concentration must not be implemented prior to clearance, as undertakings may not exercise rights and obligations arising from the intended concentration until the CPA |
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| <p><b>notification (e.g., full suspension from implementation, restrictions on adopting specific measures) during any initial review period and/or further review period.</b></p>  | <p>issues a clearance decision (suspension obligation).</p> <p>In the event the CPA requested the parties to notify the concentration because their combined market share in Slovenia exceeds 60 per cent (see questions 5 and 9), the undertakings must cease implementing the concentration as of the date of receipt of such request.</p> <p>The suspension obligation does not have an effect on the implementation of public bids pursuant to the Slovenian Takeovers Act, provided that the acquirer does not exercise voting rights (or exercises them only according to a permit for early implementation granted by the CPA).</p> <p>The duration of the waiting period depends on whether Phase I or Phase II proceedings are applied.</p>   |
| <p><b>B. Can parties request a derogation from waiting periods/suspension obligations? If so, under what circumstances?</b></p>  | <p>Under exceptional circumstances, the CPA may (upon the request of the parties) permit the implementation of the concentration prior to clearance, if such implementation is essential to maintain the full value of the investment or to perform services of general interest.</p> <p>In this regard the CPA shall consider in particular the effects of suspended execution of concentration on one or more undertakings participating in the concentration or on third parties, and the threat that the concentration poses to the effectiveness of competition.</p>  |
| <p><b>C. Are the applicable waiting periods/suspension obligations limited to aspects of the transaction that occur within the jurisdiction (e.g., acquisition or merger of local undertakings/business units)?</b></p> <p><b>If not, to what extent can the parties implement the transaction outside the jurisdiction prior to clearance (e.g., derogation from suspension, hold separate arrangements)?</b></p> | <p>Applicable waiting periods are not limited solely to aspects of the transaction that occur within the jurisdiction, therefore, the parties are not allowed to proceed with the transaction outside the jurisdiction prior to the expiration of the local waiting period.</p> <p>There are no such procedures available to permit consummation outside the jurisdiction prior to the expiration of the local waiting period. In exceptional cases and on the request of an undertaking, the CPA may issue an order permitting execution of concentration in a specified scope and under specified conditions before the decision is issued, provided that the undertaking can demonstrate in its appeal that such execution is crucial in order to maintain the value of the investment or performance of services in general interest. In this context, the CPA shall consider in particular the effects of suspended execution of concentration on one or more undertakings participating in the concentration or on third parties, and the threat that the concentration poses to the effectiveness of competition.</p> |
| <p><b>D. Are parties allowed to close the transaction if no decision is issued within the statutory period?</b></p>  | <p>No.</p>   |
| <p><b>E. Describe any provisions or procedures available to the enforcement agency, the parties and/or third parties to extend the waiting</b></p>   | <p>None.</p>   |

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| <b>period/suspension obligation.</b>   |       |
| <b>F. Describe any procedures for obtaining early termination of the applicable waiting period/suspension obligation, and the criteria and timetable for deciding whether to grant early termination.</b>                                | None. |
| <b>G. Describe any provisions or procedures allowing the parties to close at their own risk before waiting periods expire or clearance is granted (e.g., allowing the transaction to close if no "irreversible measures" are taken).</b> | None. |

| <b>12. Responsibility for notification / representation</b>  |  |
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| <b>A. Who is responsible for notifying – the acquiring person(s), acquired person(s), or both? Does each party have to make its own filing?</b>                    | <p>Concentrations that consist of a merger or acquisition of joint control have to be notified jointly by the undertakings involved in the merger, or by those acquiring joint control.</p> <p>In all other cases, the undertaking acquiring control is responsible for the filing.</p>  |
| <b>B. Do different rules apply to public tenders (e.g., open market stock purchases or hostile bids)?</b>  | No. Public takeovers which lead to notifiable concentrations within the meaning of the Competition Act require the submission of a merger notification to the CPA no later than 30 days after the announcement of the public bid.  |
| <b>C. Are there any rules as to who can represent the notifying parties (e.g., must a lawyer representing the parties be a member of a local bar)?</b>             | <p>According to the applicable legislation, any person who has full contractual capacity can represent the notifying party. The power can as well be granted to a law firm or an expert organisation which is, within the framework of its registered activity, preparing the concentration notifications for the parties.</p> <p>Notwithstanding the foregoing, the foreign undertaking must always appoint a representative within the territory of the Republic of Slovenia upon which the requests, invitations, decisions, etc. will be served.</p> |
| <b>D. How does the validity of the representation need to be attested (e.g., power of attorney)? Are there special rules for foreign representatives or firms?</b> | <p>The validity of the representation needs to be attested in writing, by the duly signed power of attorney. The translation of power of attorney into Slovenian language shall be enclosed.</p> <p>There are no special rules for foreign representatives.</p>  |

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| <p><b>Must a power of attorney be notarized, legalized or apostilled?</b></p> |  |
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### 13. Filing fees

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| <p><b>A. Are any filing fees assessed for notification? If so, in what amount and how is the amount determined (e.g., flat fee, fees for services, tiered fees based on complexity, tiered fees based on size of transaction)?</b></p> | <p>The filing fee is determined by the Administrative Fees Act. At present, it amounts to € 2,000. However, the value is subject to adjustment by the Government of the Republic of Slovenia.</p>  |
| <p><b>B. Who is responsible for payment?</b></p>   | <p>The notifying party is responsible for payment of the filing fee. Concentrations that consist of a merger or acquisition of joint control have to be notified jointly by the undertakings involved in the merger, or by those acquiring joint control. In all other cases, the undertaking acquiring control is responsible for the filing.</p> |
| <p><b>C. When is payment required?</b></p>   | <p>The payment is required upon notifying the concentration.</p>   |
| <p><b>D. What are the procedures for making payments (e.g., accepted forms of payment, proof of payment required, wire transfer instructions)?</b></p>   | <p>All forms of payment are acceptable; the proof of payment is required to be enclosed to the notification form.</p>  |

### 14. Process for substantive analysis and decisions

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| <p><b>A. What are the key procedural stages in the substantive assessment (e.g., screening mergers, consulting third parties)?</b></p> | <p>Procedural stages in the substantive assessment are not legally defined. Nevertheless, CPA follows the European Commission practice.</p>   |
| <p><b>B. What merger test does the agency apply (e.g., dominance test or substantial lessening of competition test)?</b></p>           | <p>The CPA assesses whether the intended concentration would result in a significant impediment to effective competition within the territory of Slovenia, or in a substantial part of it, in particular due to the creation or strengthening of a dominant position.</p> |
| <p><b>C. What theories of harm does the agency consider in</b></p>   | <p>Inter alia, the CPA investigates the intended concentration on the basis of the following:</p>   |

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| <p><b>practice?</b></p>  | <ul style="list-style-type: none"> <li>• market position of the undertakings involved in the concentration;</li> <li>• options for financing the undertakings involved;</li> <li>• the structure of the market;</li> <li>• choices and alternatives that are available to suppliers and customers and their access to sources of supply or the market itself;</li> <li>• barriers to entry;</li> <li>• supply and demand projections with regard to the relevant markets;</li> <li>• benefits to intermediate and final customers; and</li> <li>• technical and economic development (provided that it is advantageous for consumers and does not hinder competition).</li> </ul> |
| <p><b>D. What are the key stages in the substantive analysis? Does this differ depending on the type of transaction (e.g., joint venture)?</b></p>                             | <p>In practice, the key stages in the substantive analysis are firstly the definition of the relevant markets and secondly the effect of the merger on the position of the parties in the market. The non-exhaustive key stages can include the analysis of the following elements: actual and potential competition with barriers to entry, possible countervailing powers, collective dominance (if needed) or elimination of effective competition.</p> <p>There is no difference in the substantive analysis for joint ventures.</p>  |
| <p><b>E. Are non-competition issues ever considered (in practice or by law) by the agency? If so, can they override or displace a finding based on competition issues?</b></p> | <p>The Competition Act does not expressly mention non-competition issues such as industrial policy or public interest issues as being relevant for the assessment process. In practice, however, it is not unlikely that the CPA would take into account non-competition issues in a similar way to the European Commission.</p>  |
| <p><b>F. What are the possible outcomes of the review (e.g., unconditional/conditional clearance, prohibition, etc.)?</b></p>  | <p>Possible outcomes of the review are unconditional clearance, conditional clearance, prohibition and determination that a concentration is not subject to Competition Law.</p>  |
| <p><b>G. What types of remedies does the agency accept in practice? How is the process initiated and conducted in practice?</b></p>  | <p>According to article 51 of the Competition Act, the notifying party may submit remedies in order to eliminate serious doubts as to the compatibility of the concentration with Slovenian competition rules. The Competition Act does not distinguish between structural and behavioural remedies. In practice, depending on the individual cases, the CPA may accept both. Regarding the monitoring procedure CPA has no legal competence to appoint a trustee to monitor the remedy implementation. However, CPA may, by a request for information, require the notifying party to provide a report on the implementation of corrective measures imposed by a decision.</p>   |



**PART 3: CONFIDENTIALITY, TRANSPARENCY AND INTERAGENCY MERGER  
COOPERATION**

| 15. Confidentiality  |   |
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| A. <b>To what extent, if any, does the agency make public the fact that a pre-merger notification filing was made or the contents of the notification? If applicable, when is this disclosure made?</b>  | Based on a decision of the Agency Council of 3 April 2013, the CPA has started publishing the fact that a notification has been submitted on its website. Phase I decisions are also made public on the CPA's website. In a similar way, in Phase II proceedings, including both the fact that such proceedings have been initiated and the final decision, are published on the CPA's website. The information on the initiation of Phase II proceedings states the names of the parties, a brief summary of the grounds for initiation of the proceedings, and invites third parties to submit their observations and comments.   |
| B. <b>Do notifying parties have access to the agency's file? If so, under what circumstances can the right of access be exercised?</b>   | Yes, the notifying parties have the right to review the case file documents and make transcripts and copies at their own expense at any time during the procedure. An authorized official in the premises of the CPA shall supervise reviewing, transcribing and photocopying.  |
| C. <b>Can third parties or other government agencies obtain access to notification materials and any other information provided by the parties (including confidential and non-confidential information)?</b><br><br><b>If so, under what circumstances?</b> | <p>Third parties that are able to demonstrate their legally recognised interest may lodge an application for participation in the proceedings. Such request needs to be filed with the CPA within 30 days from the publication of the initiation of proceedings. If the participation in the proceedings is granted, the third party may take part in the entire proceedings, receive access to the file, lodge statements and opinions and, ultimately, challenge the final decision issued by the CPA.</p> <p>Apart from the above, any third parties, even without formally joining the proceedings, may submit comments and statements to the CPA at any stage of the Phase I and II proceedings. Although the CPA is not legally obligated to consider such information, it usually takes it into account when assessing the case.</p>   |
| D. <b>Are procedures available to request confidential treatment of the fact of notification and/or notification materials? If so, please describe.</b>  | <p>Yes. The parties must request the confidential treatment of the fact of notification and/or particular notification materials and substantiate their request. The burden of proof regarding the existence of a business secret shall be borne by the undertaking claiming it to be such. Upon the request of the CPA, the undertaking must produce a version of the document, which omits the data, marked as a business secret.</p> <p>The CPA may disclose data, which constitute a business secret to the undertaking against which charges are being brought, if it deems that its disclosure might objectively prevail over the interests of protecting such information as a business secret in order to ensure the right to defence. In this context the CPA may postpone the review of data constituting a business secret, although not longer than the time of service of the Statement of Objection.</p> <p>In any case the parties may not review or make copies of the following documents:</p> |

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|  | <ul style="list-style-type: none"> <li>- Internal documents regarding the file, including correspondence between the CPA and the European Commission or competition protection authorities of other EU Member States;</li> <li>- Data, which constitute trade secrets;</li> <li>- Data relating to the secrecy of the source;</li> <li>- Minutes of discussion and voting; or</li> <li>- draft decisions.</li> </ul> <p>Should the parties request the confidential treatment of the fact of notification, it should be kept confidential until the decision of compatibility of a concentration with the competition rules or the order to commence the second phase procedure is issued.</p> |
| <p><b>E. Can the agency deny a party's claim that certain information contained in notification materials is confidential? Are there procedures to challenge a decision that information is not confidential? If so, please describe.</b></p>  | <p>No.</p>   |
| <p><b>F. Does the agency have procedures to provide public and non-public versions of agency orders, decisions, and court filings? If so, what steps are taken to prevent or limit public disclosure of information designated as confidential that is contained in these documents?</b></p> | <p>The CPA may disclose confidential information that constitutes a business secret to the notifying parties, if the need for disclosing such information prevails over the interest in protecting it. Information on the initiation of the procedure as well as the Phase I and II decisions published on the CPA's website are usually non-confidential versions from which business secrets of the parties have been removed.</p>   |

| <b>16. Transparency</b>   |  |
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| <p><b>A. Does the agency publish an annual report with information about mergers? Please provide the web address if available.</b></p>  | <p>Yes. See <a href="http://www.varstvo-konkurence.si/">http://www.varstvo-konkurence.si/</a>.</p>   |
| <p><b>B. Does the agency publish press releases related to merger policy or investigations/reviews? If so, how can these be accessed (if available online, please provide a link)? How often are they published (e.g., for each</b></p> | <p>Press releases related to merger policy are published occasionally.</p> <p>See: <a href="http://www.varstvo-konkurence.si/medijsko-sredisce/">http://www.varstvo-konkurence.si/medijsko-sredisce/</a></p> |

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| decision)?   |  |
| <p><b>C. Does the agency publish decisions on why it challenged, blocked, or cleared a transaction? If available online, provide a link. If not available online, describe how one can obtain a copy of decisions.</b></p> | <p>Based on a decision of the Agency Council of 3 April 2013, the CPA has started publishing the fact that a notification has been submitted on its website. Phase I decisions are also made public on the CPA's website. In a similar way, in Phase II proceedings, including both the fact that such proceedings have been initiated and the final decision, are published on the CPA's website. The information on the initiation of Phase II proceedings states the names of the parties, a brief summary of the grounds for initiation of the proceedings, and invites third parties to submit their observations and comments.</p> |

| <b>17. Interagency Merger Cooperation</b>  |            |
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| <p><b>A. Is the agency able to exchange information or documents with foreign competition authorities?</b></p>   | <p>No.</p> |
| <p><b>B. Is the agency or government a party to any agreements that permit the exchange of information with foreign competition authorities? If so, with which foreign authorities? Are the agreements publicly available?</b></p>   | <p>No.</p> |
| <p><b>C. Does the agency need consent from the parties who submitted confidential information to share such information with foreign competition authorities? If the agency has a model waiver, please provide a link to it here, or state whether the agency accepts the ICN's model waiver of confidentiality in merger investigations form.</b></p> | <p>N/A</p> |

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| <p><b>PART 4: SANCTIONS</b></p> |
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**18. Sanctions/penalties**

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| <p><b>A. What are the sanctions/penalties for:</b></p> <p><b>(i) failure to file a notification</b></p> <p><b>(ii) incorrect/misleading information in a notification</b></p> <p><b>(iii) failure to observe a waiting period/suspension obligation</b></p> <p><b>(iv) failure to observe or delay in implementation of remedies</b></p> <p><b>(v) implementation of transaction despite the prohibition from the agency?</b></p> | <p>Failing to notify a concentration or failing to notify a concentration within the time limit constitutes a misdemeanour.</p> <p>A fine up to 10 percent of the annual sales of undertakings participating in the concentration together with other group undertakings generated in the preceding financial year shall be imposed on a legal entity and sole trader.</p> <p>A fine of between 5,000 to 10,000 EUR shall also be levied on the responsible person of a corporate body or a responsible independent contractor for the offence listed above.</p> <p>A fine of 3,000 to 5,000 EUR shall be imposed upon a natural person already controlling at least one undertaking for committing the violation listed above.</p> <p>If the nature of the offence cited above is particularly serious given the amount of resulting damages or amount of unlawfully acquired pecuniary benefits or the perpetrator's intent or purpose to exploit, the responsible person of a legal entity or sole trader shall be fined between 15,000 to 30,000 EUR and a natural person controlling at least one undertaking shall be fined between 10,000 and 15,000 EUR.</p> <p>Undertakings shall not exercise rights and obligations arising from concentration subject to obligatory notification until a decision on compliance of the concentration with competition rules has been issued. When the Office urges undertaking to notify concentration in accordance with Article 42 of the Act, undertakings must cease to execute concentration from the date of service of the notice. If the undertakings act contrary to the provisions listed above their acts shall be null and void.</p> <p>In addition, failing to observe any mandatory waiting periods can result in civil law sanctions.</p> |
| <p><b>B. Which party/ies (including natural persons) are potentially liable for each of A(i)-(v)?</b></p>   | <p>The party who is acquiring control in another undertaking.</p>  |
| <p><b>C. Can the agency impose/order these sanctions/penalties directly, or is it required to bring judicial action against the infringing party? If the latter, please describe the procedure and indicate how</b></p>   | <p>The CPA can impose a monetary fine directly in a misdemeanour procedure.</p>  |

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| long this procedure can take.                            |     |
| D. Are there any recent or significant fining decisions? | N/A |

**PART 5: POST-REVIEW MATTERS/JUDICIAL REVIEW**

| <b>19. Ministerial intervention</b>  |     |
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| <b>A. Is there possibility for any ministry or a cabinet of ministries to abrogate, challenge or change merger decisions issued by the agency or by a court? If yes, to which merger decisions does this apply (e.g., any decision, prohibitions, clearances, remedies)?</b> | No. |
| <b>B. What are the grounds for such ministerial intervention? Other policy goals? Are they defined? What guidance is available regarding such grounds?</b>   | N/A |
| <b>C. Describe the main elements of the ministerial intervention process and procedures, and indicate any guidance available</b>   | N/A |

| <b>20. Administrative and judicial processes/review</b>   |  |
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| <b>A. Describe the timetable for judicial and administrative review related to merger transactions.</b> | Legal actions for judicial review against the CPA's decision can be filed with the Administrative Court of the Republic of Slovenia. The court generally decides without an oral hearing. The plaintiff may not put forward any new facts or evidence. An appeal against the decision of the Administrative Court of the Republic of Slovenia can be filed with the Supreme Court of the Republic of Slovenia. |
| <b>B. Describe the procedures for protecting confidential</b>   | The Administrative Court and the Supreme Court apply the same provisions for protecting confidential information as the CPA. In principle, the judgements are published in an  |

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| information used in judicial proceedings or in an appeal/review of an agency decision. | anonymised way.  |
| <b>C. Are there any limitations on the time during which an appeal may be filed?</b>   | The legal action has to be filed with the Administrative Court of the Republic of Slovenia within 30 days from the date on which the decision of the CPA was served. |

| <b>21. Additional filings</b>  |     |
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| <b>A. Are any additional filings/clearances required for some types of transactions (e.g., sectoral or securities regulators or national security or foreign investment review)?</b> | No. |

| <b>22. Closing deadlines</b>   |     |
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| <b>A. When a transaction is cleared or approved, is there a time period within which the parties must close for it to remain authorized? If yes, can the parties obtain an extension of the deadline to close?</b> | No. |

| <b>23. Post merger review of transactions</b>   |   |
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| <b>A. Can the agency reopen an investigation of a transaction that it previously cleared or allowed to proceed with conditions? If so, are there any limitations, including a time limit on this authority?</b> | <p>The CPA may annul the decision declaring the concentration compatible with competition rules or the decision that the concentration notified does not fall within the scope of the provisions of the Competition Act and decide on the compliance of concentration with competition rules in the following situations:</p> <p>(i) If the decision is based on inaccurate, incomplete or misleading data provided by one of the undertakings participating in the concentration, the decision in this case may be issued within three years from the date when the decision declaring the concentration compatible with competition rules or the decision that the concentration notified does not fall within the scope of the provisions of the Act has been served.</p> <p>(ii) If the undertaking acts contrary to the obligations, which are</p> |

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|  | provided to ensure the implementation and supervision of the corrective measures, the decision in this case may be issued within two years from the expiration of the deadline for fulfilment of the corrective measures. |
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