

ICN MERGER NOTIFICATION AND PROCEDURES TEMPLATE

Merger Working Group

SLOVENIAN COMPETITION PROTECTION AGENCY (CPA)

February 2021

IMPORTANT NOTE: This template is intended to provide background on ICN jurisdiction's merger notification and review procedures.

Reading the template is not a substitute for consulting the referenced statutes and regulations.

[Please include, where applicable, any references to relevant statutory provisions, regulations, or policies as well as references to publicly accessible sources, if any.]¹

1. Merger notification and review materials [references to publicly accessible sources (homepage address) and indication of the languages in which these materials are available]

Statutory Laws

A. Notification provisions	PREVENTION OF THE RESTRICTION OF COMPETITION ACT (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, 33/14, 76/15 and 23/17); hereinafter: the Competition Act; §10,11, 42-53 http://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/angleska_stran/ZPOMK-1-AN_REV-za_objavo_na_spletu.pdf
B. Substantive merger review Provisions	The Competition Act; §10,11, 42-53; http://www.varstvo-konkurence.si/fileadmin/varstvo-konkurence.si/pageuploads/angleska_stran/ZPOMK-1-AN_REV-za_objavo_na_spletu.pdf

¹ Editor's note: all the comments in [square brackets] are intended to assist the agency when answering this template but will be removed once the completed template is made public.

C. Implementing regulations	none
D. Notification forms or information requirements	“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) – in Slovenian language only: http://www.pisrs.si/Pis.web/pregledPredpisa?id=URED5098

Interpretative Guidelines and Notices

E. Guidance on Merger Notification Process [e.g., information on calculation of thresholds, etc.]	Overview (in English language): http://www.varstvo-konkurence.si/en/concentrations-of-undertakings/notification-procedure/
F. Guidance on Substantive Assessment in Merger Review [Please include reference separately, if applicable]	none
G. Has your agency published guidelines or directives on notification of mergers involving specific sectors (e.g., digital economy)? [If affirmative, please provide references and languages available]	NO
H. Other relevant notices, policy statements, interpretations, rules, or guidance on aspects of merger review or the agency’s decision-making process	/

2. Agency (or Agencies) responsible for merger enforcement.	
A. Name of the Agency which reviews mergers. If there is more than one agency, please describe the allocation of responsibilities.	Slovenian Competition Protection Agency (CPA)
B. Contact details of the agency [address and telephone including the country code, email, website address and languages available on the website]	Dunajska 58, SI – 1000 Ljubljana, Slovenija T: +386 1 478 35 97, F: +386 1 478 36 08 e-mail: gp.avk@gov.si

	website: http://www.varstvo-konkurence.si (in Slovenian language) http://www.varstvo-konkurence.si/en/ (in English language)
C. Is agency staff available for jurisdiction/filing guidance? [If yes, please provide contact points for questions on merger filing requirements and/or consultations]	CPA is available for jurisdiction or filing guidance at the email address: gp.avk@gov.si

3. Covered transactions	
A. Thorough definition of potentially covered transactions [i.e., share acquisitions, asset acquisitions, mergers, de-mergers, consolidations, consortia, amalgamations, joint ventures or other forms of contractual relationships, such as partnerships and alliance agreements]	<p>Article 10 (Definition of a concentration)</p> <p>1) 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"> - the merger of two or more previously independent undertakings or parts of undertakings, or - 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 - 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. <p>(2) Control of a whole undertaking or a part thereof 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 consideration of the facts or regulations involved, confer the possibility of exercising decisive influence on such an undertaking or part of an undertaking, in particular: - ownership or the right to use all or part of the assets of an undertaking; - rights or contracts that confer a decisive influence on the composition, voting or orders of the bodies of an undertaking.</p> <p>(3) Control is acquired by persons or undertakings that: - are holders of rights or entitled to rights under the contracts concerned; or - while not being holders of such rights or</p>

	<p>entitled to rights under such contracts, have the power to exercise the rights deriving from contracts.</p> <p>(4) 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 a decision of the Agency on request when the undertaking can show that the disposal was not reasonably possible within the prescribed period. No judicial protection shall be allowed against such decision.</p>
<p>B. What is the geographic scope of transactions covered?</p>	<p>Under the Competition Act, concentrations are only assessed in relation to the effects on the Slovenian market; therefore the CPA is only competent to appraise those effects of the concentration which can be clearly defined to exist on the Slovenian market.</p>
<p>C. If change of control is a determining factor, how is control defined and interpreted in practice?</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"> - the merger of two or more previously independent undertakings or parts of undertakings, or - 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 - 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.

	<p>Control 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"> - ownership or the right to use all or part of the assets of an undertaking; - rights or contracts that confer a decisive influence on the composition, voting or orders of the bodies of an undertaking. <p>Control is acquired by persons or undertakings that:</p> <ul style="list-style-type: none"> - are holders of rights or entitled to rights under the contracts concerned; or - while not being holders of such rights or entitled to rights under such contracts, have the power to exercise the rights deriving from contracts. <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>D. Are partial (less than 100%) stock acquisitions/minority shareholdings covered? At what levels? Are acquisitions of assets ever covered? If so, do the assets have to form a free-standing business or can the combination of the assets with the business of the acquirer be considered in order to have jurisdiction? Does the authority have jurisdiction over “bare” asset purchases, e.g. where the assets purchased do not relate to the acquirer’s existing business?</p>	<p>Yes, when the acquiring company has a possibility of exercising decisive influence. The 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. various agreements which determine special rights that 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).</p> <p>The concept of concentration is further regulated by Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (2008/C 95/01).</p> <p>The acquisition of control over assets can only be considered a concentration if those assets constitute the whole or a part of an undertaking, i.e. a business with a market presence, to which a market turnover can be clearly attributed. The assets must also have market access.</p>

4. Thresholds for notification	
A. What are the general thresholds for notification? [If the thresholds are subject to adjustment, state on what basis and how frequently (e.g., for inflation, annually)]	<p>The CPA must be notified of a concentration where in the business year preceding the concentration:</p> <ul style="list-style-type: none"> • the combined turnover of the undertakings concerned (including undertakings belonging to the same group) exceeded €35 million in Slovenia; and • 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 fullfunction joint venture, the turnover of at least two undertakings concerned (including undertakings belonging to the same group) exceeded €1 million in Slovenia. <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>
B. To which entities do the merger notification thresholds apply, i.e., which entities are included in determining relevant undertakings/firms for threshold purposes? If based on control, how is control determined?	<p>The undertaking or undertakings concerned are the merging undertakings, these are the undertaking gaining control over another undertaking (i.e., the acquirer) together with other undertakings in the group, the acquired undertaking (target), and undertakings creating a notifiable joint venture.</p> <p>Control is further determined in article 42(3) of the Competition Act and by Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (2008/C 95/01) (point II.1, para.11-27)</p>
C. How is the nexus to the jurisdiction determined (e.g., sales or assets in the jurisdiction)? If based on an “effects doctrine”, please describe how this is applied in practice. If national sales	<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>are relevant, how are they allocated geographically (e.g., location of customer, location of seller)?”</p>	<p>For the turnover allocation we use the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (2008/C 95/01) (point V, para.195-202)</p>
<p>D. Can a single party trigger the notification threshold (e.g., one party’s sales, assets, or market share)?</p>	<p>Yes, a single party can trigger the notification threshold if a target company creates more than 35 million turnover on the Slovenian market.</p>
<p>E. Are any sectors excluded from notification requirements? If so, which sectors? To what period(s) of time do the thresholds relate (e.g., most recent calendar year, fiscal year; for assets-based tests, calendar year-end, fiscal year-end, other)?</p>	<p>No, there are no sectors excluded from notification requirements The thresholds relate to the preceding business year.</p>
<p>F. Are there special threshold calculations for specific sectors (e.g., banking, airlines, media, digital markets) or specific types of transactions (e.g., joint ventures, partnerships, financial investments)? If yes, for which sectors and types of transactions?</p>	<p>The Competition Act does not contain any provisions that would specifically relate to special sectors. However, provisions related to merger control and other relevant approvals can be found in other areas, inter alia, the media sector, the energy sector, electronic communication sector and financial services. In these areas, close communication of CPA with sectoral regulators is needed. See more details in answer to Q 17D.</p>
<p>G. 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)? [Describe the methodology for identifying and calculating any values necessary to determine if notification is required, including the value of the transaction, the relevant sales or turnover, and/or the relevant assets]</p>	<p>No, there are no special rules or exceptions/exemptions regarding jurisdictional thresholds for transactions in which both the acquiring and acquired parties are foreign or foreign-to-foreign transactions. The only valid rule is the generated turnover on the market of the Republic of Slovenia.</p>
<p>H. 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</p>	<p>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</p>

initiate a review? [Describe methodology for calculating exchange rates]	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). There is no need to calculate exchange rates because the relevant condition is total annual sale of undertakings participating in the concentration on the market of the Republic of Slovenia.
I. Are current notification criteria catching relevant transactions related to digital markets?	Only if the companies involved in the merger achieve a market share in the digital markets higher than 60%.

Calculation Guidance and related issues

<p>J. 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"> i) the value of the transaction; ii) the relevant sales or turnover; iii) the relevant assets; iv) market shares; v) other (please describe). 	<p>The thresholds are set in two ways: the relevant sale od turnover and market shares.</p> <p>Revenues are taken into account in accordance with Slovenian Accounting Standards or International Financial Reporting Standards – IFRS regard to the Regulation (EC) No 139/2004 on the control of concentrations between undertakings (2008/C 95/01) (point V, para.195-202).</p> <p>Where turnover thresholds are not met, a combined market share of more than 60 per cent in Slovenia is required.</p>
<p>K. Which entities are included in determining relevant investment funds for threshold purposes? If based on control, is the definition of control in these cases any different from the definition of control in general (question 3C)? If yes, how?</p>	<p>Included are all companies in the investment fund’s portfolio over which the same manager has the option of exercising control. Revenues are taken into account in accordance with the Regulation (EC) No 139/2004 on the control of concentrations between undertakings (2008/C 95/01) (point V, para.189-191).</p>
<p>L. In case an investment fund is part of a transaction, are its controllers required to present turnover information related to other funds under same manager (general partner) control? Are those other funds considered as part of the transaction for turnover purposes?</p>	<p>Yes. In such a case, other funds are considered as part of the transaction.</p>

M. Describe the methodology applied for currency conversion [e.g. which exchange rates are used].	If the annual reports of companies established abroad that generate turnover on the market of the Republic of Slovenia are in foreign currency, we use average exchange rate for a period of the last twelve months.
5. Pre-notification	
A. If applicable, please describe the pre-notification procedure and whether it can be mandatory or not [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	
A. Is notification mandatory? [Please describe if notification is mandatory in pre-notification phase, post-merger or voluntary]	Notification is mandatory prior to its implementation no later than 30 days after the conclusion of the contract, the announcement of the public bid, or the acquisition of a controlling interest.
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. The undertakings concerned may notify the merger on the basis of their intention (intended concentrations) in good faith to conclude the contract or, in the case of a public offer, where they have made public the purpose of such an offer.
D. When must notification be made? If there is a triggering 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	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 acquisition of a controlling interest. That period shall begin when the first of these events occurs.

<p>the transaction? Are there special rules for public takeover bids?</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. 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>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.</p>	<p>No, there is a statutory deadline, which cannot be extended. There is also a fine set for delay (10% of annual turnover of the company).</p>

<p>7. Simplified Procedures</p>	
<p>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.).</p>	<p>Slovenian Competition Act 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 CPA 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>
<p>B. Describe the criteria adopted to consider a transaction under the simplified procedure.</p>	<p>N/A</p>

8. Information and documents to be submitted with a notification	
<p>A. Describe the types of documents that parties must submit with the notification (e.g., agreement, annual reports, market studies, transaction documents, internal documents).</p>	<p>The information and documentation to be submitted in a merger notification are set out in the Decree on the concentration of companies notification form (the Form). The Form requires the parties to provide quite substantial information on the concentration, as well as on the relevant markets, market shares and market size. Inter alia, the following needs to be provided:</p> <ul style="list-style-type: none"> • information on the parties to the concentration (eg, name, registered seat, contact person, nature of business, ownership and control; personal and financial links and previous acquisitions; annual reports); • description of the intended concentration; • originals or certified copies of all documents on the basis of which the concentration takes place; • definition of the relevant markets; • the total size of the relevant markets and market shares of the undertakings concerned; • information on main competitors, customers and suppliers, the structure of supply and demand, market information market entry, the relevance of research and development, efficiency gains, etc; • information on indispensable ancillary restrictions; and • (if available) copies of analyses, reports or studies related to the relevant market.
<p>B. Is there a distinction between tangible and intangible (e.g., customer portfolio, data on consumers, etc.) assets in the description of the transaction? [In respect to digital markets, state if the agency considers the amount of user data the companies have, and which will be passed on in the transaction]</p>	<p>There is no distinction between tangible and intangible assets in the description of the transaction.</p> <p>The CPA will take the amount of user data into account when assessing the merger, but it is not relevant for threshold purposes.</p>

C. Are documents proving the efficiencies of the transaction required? [If applicable, please provide the type of documents normally required]	The point 6.2.12 of the Notification Form stipulates that it is necessary in cases, where the party refers to efficiencies gains, the party must provide a description of any efficiency gains and additional related documents (including cost savings, the introduction of new products and the improvement of services and products resulting from the proposed concentration).
D. What information is required in case the target company is experiencing financial insolvency?	No specific information is required, but the CPA is likely to require documents proving financial insolvency.
E. Is there a specific procedure for obtaining information from target companies in the case of hostile/ unsolicited bids?	No. The CPA may address a request for information to each undertaking, partners, members of management or supervisory boards and persons employed with the undertaking.
F. Are there any document legalization requirements (e.g., notarization or apostille)? What documents must be legalized?	No. Documents declaring the basis of which the concentration takes place shall be provided in certified copies; all other documents attached to the filing may be provided in simple copies.
G. What are the agency's rules and 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)?	There are no special rules for foreign transactions.
H. 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?	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. 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,

	<p>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>
<p>I. 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)?</p>	<p>Yes, the parties to the concentration may also provide other information, which they consider necessary for a comprehensive assessment of the concentration.</p>
<p>J. Are there different forms for different types of transactions or sectors?</p>	<p>NO</p>
<p>K. With respect to investment funds:</p> <p>i) Is it requested that an investment fund taking part in a transaction provide a statement that its controllers do not manage any other investment funds in the same relevant market?</p> <p>ii) Should an investment fund be controlled by an entity that is also responsible for other funds in the same relevant market, are such funds considered part of the transaction? Is it requested that the controlling entity provide market information (e.g., market share) related to the other funds it manages and which are in the same relevant market?</p>	<p>i) There are no specific provisions for investment funds</p> <p>ii) Such funds are considered part of the transaction. In such a case, CPA will require the notifying party to provide market information for other investments funds it manages.</p>

<p>iii) Should there be no classic concentration, is there any sort of exemption regarding presenting certain information requested in the form?</p>	<p>iii) Article 5 of the Decree provides that upon notifying a concentration, the parties to the concentration may apply for a waiver from the CPA 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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<p>9. Translation</p>	
<p>A. In what language(s) can the notification forms be submitted?</p>	<p>The notification forms and all relevant annexes must be submitted in official language of Slovenia - Slovenian language. In practice, the CPA also accepts notification forms and other documents in English, which is comonly undestood lagueage.</p>
<p>B. Describe any requirements to submit translations of documents:</p> <ul style="list-style-type: none"> i) with the initial notification; and ii) later in response to requests for information. <p>In addition:</p> <ul style="list-style-type: none"> iii) what are the categories or types of documents for which translation is required; iv) what are the requirements for certification of the translation; v) which language(s) is/are accepted; and vi) are summaries or excerpts accepted in lieu of complete translations and in which languages are summaries accepted? 	<p>According to the provisions of "General Administrative Procedure Act" (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 as also all procedural acts performed.</p> <p>Consequently, the notification forms and all documents attached there need to be submitted in the Slovenian language. Documents representing the base 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>

<p>10. Review Periods</p>	
<p>A. Describe any applicable review periods following notification.</p>	<p>The CPA decides in Phase I proceedings if the concentration does not raise serious doubts as to its compatibility with the Slovenian competition Act. The CPA is then obliged to issue its decision within 25 working days of the receipt of a complete notification.</p>

	<p>In cases that raise serious doubts as to their compatibility with the Slovenian Competition Act, the CPA initiates Phase II proceedings within 25 working days of receipt of a complete notification. Once the CPA has initiated Phase II, it must issue a decision within 60 working days of initiating such proceedings.</p> <p>If the parties propose remedies, the deadline for issuing the Phase I or Phase II decision is extended by additional 15 working days.</p> <p>The waiting period starts running only once a complete notification has been submitted. Hence, if the CPA finds the submitted notification does not contain all mandatory information, it will issue a request for additional information and the clock does start running.</p> <p>There is no legal presumption that the concentration has received approval once the waiting period expires.</p>
B. Are there different rules for public tenders (e.g., open market stock purchases or hostile bids)?	NO
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?	There's no procedures for an extension of review periods, the delay of the instruction deadline does not have direct legal consequences. Request for additional information, necessary for the assessment of the concentration, re-start the review period.
D. Is there a statutory or other maximum duration for extensions?	No.
E. Does the agency have the authority to suspend review periods? Does suspending a review period require the parties' consent?	The Agency is trying to examine a notification without delay. If the notification does not contain all the required elements specified on the special form, Agency shall invite the notifying party to correct the deficiencies and shall set a time limit for such correction. If the notifying party fails to correct the deficiencies within the time limit, it shall be deemed that the concentration has not been notified.

F. What are the time periods for accelerated review of non-problematic transactions, if any?	Periods are the same for all reviews.
G. If remedies are offered, do they impact the timing of the review?	If the parties propose remedies, the deadline for issuing the Phase I or Phase II decision is extended by an additional 15 working days.

11. Waiting periods / suspension obligations	
A. Describe any waiting periods/suspension obligations following notification (e.g., full suspension from implementation, restrictions on adopting specific measures) during any initial review period and/or further review period.	<p>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 issues a clearance decision (suspension obligation). 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). The duration of the waiting period depends on whether Phase I or Phase II proceedings are applied.</p>
B. Can parties request a derogation from waiting periods/suspension obligations? If so, under what circumstances?	<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>C. Are the applicable waiting periods/suspension obligations limited to aspects of the transaction that occur within the agency's jurisdiction (e.g., acquisition or merger of local undertakings/business units)? If not, to what extent can the parties implement the transaction outside the agency's jurisdiction prior to clearance (e.g., through derogation from suspension, hold separate arrangements)?</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. There are no such procedures available to permit consummation outside the jurisdiction prior to the expiration of the local waiting period.</p> <p>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.</p> <p>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>D. Are parties allowed to close the transaction if no decision is issued within the statutory period?</p>	<p>The party may withdraw (not close the transaction) his claim (merger assessment) until the CPA has issued a decision.</p>
<p>E. Describe any provisions or procedures available to the enforcement agency, the parties and/or third parties to extend the waiting period/suspension obligation.</p>	<p>none</p>
<p>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.</p>	<p>none</p>
<p>G. Describe any provisions or procedures allowing the parties to close the transaction 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).</p>	<p>none</p>

12. Responsibility for notification / representation	
A. Who is responsible for notifying – the acquiring company(ies), acquired company(ies), or both? Does each party have to make its own filing?	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.
B. Do different rules apply to public tenders (e.g., open market stock purchases or hostile bids)?	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.
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)?	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. 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.
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? Must a power of attorney be notarized, legalized, or apostilled?	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. There are no special rules for foreign representatives - except that they must carry out their writings in the official language of Slovenia.
13. Filing fees	
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)? [Please provide the amount in local currency and in USD as of December 31st, 2020]	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.

B. Who is responsible for payment?	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.
C. When is payment required?	The payment is required upon notifying the concentration.
D. What are the procedures for making payments (e.g., accepted forms of payment, proof of payment required, wire transfer instructions)?	All forms of payment are acceptable; the proof of payment is required to be enclosed to the notification form. The agency also checks if the inflow to the agency's account has actually arrived.

14. Process for substantive analysis and decisions [Please give a brief summary and provide information on relevant Guidance papers]	
A. What are the key procedural stages in the substantive assessment (e.g., screening mergers, consulting third parties)?	Procedural stages in the substantive assessment are not legally defined. Nevertheless, CPA follows the European Commission practice.
B. What merger test does the agency apply (e.g., dominance test or substantial lessening of competition test)?	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.
C. What theories of harm does the agency consider in practice?	The CPA investigates the intended concentration on the basis of the following: <ul style="list-style-type: none"> • market position of the undertakings involved in the concentration; • options for financing the undertakings involved; • the structure of the market; • choices and alternatives that are available to suppliers and customers and their access to sources of supply or the market itself; • barriers to entry; • supply and demand projections with regard to the relevant markets; • benefits to intermediate and final customers; and • technical and economic development (provided that it is advantageous for consumers and does not hinder competition).

	The CPA considers various theories of harm, in practice mostly: dominant position, input foreclosure, customer foreclosure, other non-coordinated effects, market coordination.
D. What are the key stages in the substantive analysis? Does this differ depending on the type of transaction (e.g., joint venture)?	<p>In practice, the key stages in the substantive analysis are firstly the definition of the relevant markets and secondly the assessment of the effects of the concentration on the position of the parties and other market participants in the market.</p> <p>The non-exhaustive key stages can include the analysis of the following elements:</p> <ul style="list-style-type: none"> - actual and potential competition with barriers to entry, - possible countervailing powers, - collective dominance (if needed) or - elimination of effective competition. <p>There is no difference in the substantive analysis for joint ventures.</p>
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?	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.
F. What are the possible outcomes of the review (e.g., unconditional/conditional clearance, prohibition, etc.)?	Possible outcomes of the review are: unconditional clearance, conditional clearance, prohibition and determination that a concentration is not subject to Competition Law.
G. What types of remedies does the agency accept? Is there a preference on any particular type of remedies? How is the process initiated and conducted?	<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 Act.</p> <p>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</p>

	notifying party to provide a report on the implementation of corrective measures imposed by a decision.
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15. Confidentiality	
<p>A. To what extent, if any, does the agency make public the fact that a premerger notification filing was made or the contents of the notification? If applicable, when is this disclosure made?</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 (this is also the case when a premerger notification filing was made) . 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>
<p>B. Do notifying parties have access to the agency’s file? If so, under what circumstances can the right of access be exercised?</p>	<p>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.</p>
<p>C. 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)? If so, under what circumstances?</p>	<p>Third parties that are able to demonstrate their legally recognised interest may place 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>

<p>D. Are procedures available to request confidential treatment of the fact of notification and/or notification materials? If so, please describe.</p>	<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.</p> <p>Upon the request of the CPA, the undertaking must produce a version of the document, which omits the data, marked as a business secret. 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.</p> <p>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> <ul style="list-style-type: none"> - Internal documents regarding the file, including correspondence between the CPA and the European Commission or competition protection authorities of other EU Member States; - Data, which constitute trade secrets; - Data relating to the secrecy of the source; - Minutes of discussion and voting; or - draft decisions. <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>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.</p>	<p>Yes, in some cases, Agency can deny a party's claim that certain information is confidential (eg. In the case of publicly available information, or if the decision is based on such information (to ensure the right of defense). "Confidential information" shall mean business secrets, business correspondence concerning the economic activity of an undertaking, personal data and any other information that, under this Act or other regulations, is subject to special arrangements for its protection and to special conditions for accessing it. Confidential information shall not include information that is publicly accessible. (article 3(1) of the Competition Act)</p>

<p>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?</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.</p> <p>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>
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<p>16. Transparency</p>	
<p>A. Does the agency publish an annual report with information about mergers? Please provide the web address if available.</p>	<p>Yes, Annual Report in Slovenian language. See: http://www.varstvo-konkurence.si/en/activities-of-the-agency/reports-and-activities/</p>
<p>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 decision)?</p>	<p>Press releases related to merger policy are published occasionally. See: http://www.varstvo-konkurence.si/medijsko-sredisce/ (in Slovenian language) and http://www.varstvo-konkurence.si/en/information-centre/press-releases/ in English language</p>
<p>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.</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>
<p>E. Does the agency publish statistics or the number of annual notifications received, clearances, prohibitions, etc.? [if applicable, please provide a link for these figures]</p>	<p>Yes, statistics or the number of annual notifications received, clearances, prohibitions, etc. are published in the Annual Report http://www.varstvo-konkurence.si/en/activities-of-the-agency/reports-and-activities/ - in Slovenian language and in OECD Annual Reports for Slovenia: http://www.oecd.org/daf/competition/annualreportsbycompetitionagencies.htm</p>

17. Cooperation	
A. Is the agency able to exchange information or documents with international counterparts?	No
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?	No
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.	N/A
D. Is the agency able to exchange information or documents with other domestic regulators?	<p>Yes, the CPA regularly exchanges information or documents with other domestic regulators, primarily in the following areas:</p> <p>Media sector</p> <p>The Competition Act applies to media mergers in the usual way (i.e., the CPA is competent to review, assess and clear or prohibit the concentration if the jurisdictional thresholds are met). However, according to the Media Act, in addition, a special consent granted by the Ministry of Culture is required for the acquisition of shareholdings (or voting rights) of 20 per cent or more in publishers of radio or TV programs or printed daily newspapers. According to article 58(3) of the Media Act, the Ministry of Culture may refuse to grant such approval if the merger results in the creation of a dominant position:</p> <ul style="list-style-type: none"> • on the advertising market; • in the media market where coverage of more than 15 per cent of analogue terrestrial radio programs is reached on the Slovenian market for radio programs transmitted via analogue terrestrial radio signals;

- in the media market where coverage of more than 30 per cent of analogue terrestrial television programs is reached on the Slovenian market for television programs transmitted via analogue terrestrial radio signals; or
- where the number of issues of daily newspapers exceeds 40 per cent of all sold issues of daily informative printed media in the Republic of Slovenia that is issued at least three times a week.

Energy sector

In the energy sector, the role of the market regulator is performed by the Agency for Energy. According to the Energy Act, it is, inter alia, competent to supervise the transparency and competitiveness of the electricity and gas markets. In this function, the Agency for Energy may be involved in the assessment of sector-specific mergers.

Electronic communications sector

The market regulator in the electronic communications sector is the Agency for Communication Networks and Services of the Republic of Slovenia (ACNS). The Electronic Communication Act provides specific rules for the cooperation between the ACNS and the CPA. Inter alia, both authorities are authorized to exchange relevant information and cooperate in determining and analyzing relevant markets and identifying significant market power. The ACNS is also competent to define relevant markets and to assess significant market power. Hence, in practice, it is likely that the CPA will involve the ACNS when assessing sector-specific mergers.

Financial sector

In the case of the acquisition of 'qualified shareholdings' (i.e., above 10, 20, 33 and 50 per cent), the laws regulating banks, insurance companies, stock brokerage companies and fund management companies require the approval of the respective regulatory bodies. Obtaining such shareholding without the prior consent of the competent regulatory body results in the loss of voting rights based on the shares beyond the qualified shareholding.

18.Sanctions/penalties	
<p>A. What are the sanctions/penalties for:</p> <ul style="list-style-type: none"> i) failure to file a notification; ii) incorrect/misleading information in a notification; iii) failure to comply with information requests; iv) failure to observe a waiting period/suspension obligation; v) breach of interim measures; vi) failure to observe or delay in implementation of remedies; vii) implementation of transaction despite the prohibition from the agency? 	<p>Failing to notify a concentration or failing to notify a concentration within the time limit or failure to observe a waiting period obligation or breach of interim measures or failure to observe or delay in implementation of remedies or implementation of transaction despite the prohibition from the Agency 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. 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 CPA urges undertaking to notify concentration in accordance with Article 42 of the Competition 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. In addition, failing to observe any mandatory waiting periods can result in civil law sanctions.</p>
<p>B. Which party/ies (including natural persons) are potentially liable for each of A(i)-(vii)?</p>	<p>The party who is acquiring control in another undertaking.</p>
<p>C. Can the agency impose/order these sanctions/penalties directly, or is it required to bring judicial</p>	<p>The CPA can impose a monetary fine directly in a misdemeanour procedure.</p>

action against the infringing party? If the latter, please describe the procedure and indicate how long this procedure can take.	
D. Are there any recent or significant fining decisions?	<p>The latest significant fining decision is related to a case from 2019 when the CPA has imposed a fine of EUR 54 million on legal entity Agrokor and legal person responsible for the failure to notify the merger of Agrokor AG and Ardeya Global Ltd. to the CPA. Since Agrokor appealed the decision and did not (yet) pay the fine, the CPA has in December 2019 effected the temporary share seizure, in accordance with Article 201 of the Slovenian Minor Offences Act. Although this measure is not commonly used in Slovenia by regulatory bodies, it will most certainly set some directions for future use of such measures, having in mind that this is certainly the most high profile case in which the CPA used the powers made available by the Slovenian Competition Law. In June 2020, the first instance court has reduced the fine to EUR 1 million, which was upheld by the High Court of Ljubljana in January 2021 as the final decision.</p>

19. Independence	
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)?	NO
B. What are the grounds for such ministerial intervention?	N/A
C. Please provide any description or guidance regarding the ministerial intervention process and procedures [if applicable]	N/A

20. Administrative and judicial processes/review	
A. Describe the timetable for judicial and administrative review related to merger transactions.	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. Describe the procedures for protecting confidential information used in judicial proceedings or in an appeal/review of an agency decision.	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 anonymised way.
C. Are there any limitations on the time during which an appeal may be filed?	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.

21. Additional filings	
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)?	No

22. Closing Deadlines	
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?	No

22. Post Merger review of transactions	
A. Can the agency reopen an investigation of a transaction that it previously cleared or allowed to proceed with	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

<p>conditions? If so, are there any limitations, including a time limit on this authority?</p>	<p>provisions of the Competition Act and decide on the compliance of concentration with competition rules in the following situations:</p> <ul style="list-style-type: none"> (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; (ii) If the undertaking acts contrary to the obligations, which are 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.
<p>B. Does the agency publish studies regarding ex-post analysis of reportable transactions which have been cleared by the agency? Are these studies publicly available? How does the agency obtain data for carrying out these studies?</p>	<p>No</p>