

## **Annex 2**

### **Information for simplified notification of mergers**

#### **1. Description of the merger**

1.1. Provide an executive summary of the merger, specifying the parties to the merger, the nature of the merger (full or partial acquisition, merger or joint venture) and the areas of activity of the parties to the merger. Also please state the markets on which the merger will have impact.

1.2. Provide a summary (up to 500 words) of the information, drafted in a form that is suitable for publication; i.e. without any confidential information or any business secrets. This description will form the basis of the Competition Authority's publication of the merger at the time of notification.

#### **2. Information about the parties**

##### **2.1. Information about the notifying party**

The following details must be provided as regards the notifying party or parties:

- a) name and address of the undertaking;
- b) the nature of the undertaking's business (i.e. the groups of products or services produced, purchased or sold by the undertaking); fields of activity not covered by the merger must also be stated;
- c) name, position, address, telephone number and e-mail address of the contact person; and
- d) the address to which documents and decisions from the Competition Council and the Competition Authority may be delivered.

##### **2.2. Information about the other parties to the merger**

The following details must be provided as regards each of the parties to the merger beside the notifying party:

- a) name and address of the undertaking;
- b) the activity of the parties to the merger; and
- c) name, position, address, telephone number and e-mail address of the contact person.

## 2.3 Information about representatives

If the notification is signed by representatives of the undertakings, information must be provided as to each representative's name, address, telephone number and e-mail address, indicating which party to the merger the representative in question represents.

## 3. Notification to other competition authorities

If the merger has been notified or will be notified to other competition authorities, including the European Commission, this must be stated, indicating the names of these competition authorities as well as any relevant contact person.

## 4. Information about the merger itself

4.1. Please describe the merger, specifying:

- a) whether the merger comprises a merger of two or more previously independent undertakings, acquisition of direct or indirect control of the entirety of or parts of one or more other undertakings, establishment of a full-function joint venture or whether in another manner it will result in decisive influence on the operations of the undertaking, cf. Section 12 a(3) of the Competition Act;
- b) the proposed or expected dates of any major events designed to bring about the completion of the merger;
- c) the proposed structure of ownership and control after the completion of the merger;
- d) the value of the transaction (the purchase price or the value of all the assets involved); and
- e) the sector codes (NACE codes) involved in the merger.

4.2. Please state the economic rationale of the merger.

## 5. Financial information

For each of the undertakings concerned, please state the following in DKK for the most recent financial year:

- a) turnover in Denmark;
- b) turnover in the EU; and
- c) global turnover.

## 6. Ownership and control

For each of the parties to the merger provide a list of all undertakings belonging to the same group. This list must include:

- a) all undertakings or persons controlling these parties, directly or indirectly; and
- b) all undertakings active on any of the markets referred to in Section 7.1 below and which are controlled, directly or indirectly, by:
  - i. one or more of the parties to the merger;
  - ii. any other undertaking identified in subsection a).

For each entry listed above, the nature and means of control should be specified.

## 7. Markets

The relevant product and geographic market(s) will determine the basis for the assessment of the market power which the new entity will obtain as a result of the merger.

The definition of the relevant market is set out in Section 5 a of the Competition Act. Information about the relevant markets must be provided by the notifying party on the basis of the following definitions:

### Relevant product markets

A relevant product market comprises all those products and/or services which are regarded as interchangeable and substitutable by the consumer, by reason of their characteristics, prices and intended use. A relevant product market may in some cases be composed of a number of individual products and/or services which present largely identical physical or technical characteristics and are interchangeable.

Factors relevant to the assessment of the relevant product market include the analysis of why the products or services are considered part of this market and why others are not, having regard to, e.g. substitutability, conditions of competition, prices, cross-price elasticity of demand or other factors relevant to the definition of the product markets (e.g. supply-side substitutability).

### Relevant geographic markets

The relevant geographic market comprises the area in which the undertakings concerned supply and demand the products or services concerned, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring geographic areas because, in particular, conditions of competition are appreciably different in those areas.

Factors relevant to the assessment of the relevant market include inter alia the nature and characteristics of the products or services concerned, the existence of entry barriers, consumer preferences, appreciable differences in the undertakings' market share between this and neighbouring geographic areas, or substantial price differences.

7.1. Please state all relevant product and geographic markets in which

- a) two or more of the parties to the merger are engaged in business activities in the same market (horizontal overlaps); and/or
- b) one or more of the parties to the merger are engaged in business activities in a market, which is upstream or downstream of the market in which one or more of the other parties to the merger are engaged, regardless of whether there is a supplier/customer relationship between them or not (vertical relationships).

## 8. Information about markets

8.1. For each of the markets stated in Section 7.1 above, provide the following information for the last three financial years:

- a) an estimate of the total size of the market in terms of sales value and volume, providing documentation of how these estimates have been calculated;
- b) the sales measured in value and volume, as well as an estimate of the market share of each of the parties to the merger;
- c) an estimate of the market share in value and volume of all competitors (including importers) having a market share of 5 % or more of the geographic market concerned, however a minimum of five undertakings.<sup>1</sup> On this basis, provide an estimate of the HHI index<sup>2</sup> pre- and post-merger, and the difference between the two (the delta);<sup>3</sup> please indicate the proportion of the market shares used as a basis to calculate the HHI; please identify the sources used to calculate these market shares and provide documentation where available to confirm the calculation; provide names, addresses, e-mail addresses and telephone numbers as well as contact persons for these competitors;
- d) an estimate of the sales value and volume of any imports; please specify:
  - i. the proportion of such imports that are derived from the parties to the merger;
  - ii. an estimate of the extent to which any trade barriers, such as tariffs, quotas, transportation costs or legal barriers, affect these imports;
- e) please state the manner in which the parties to the merger produce, price and sell their products and/or services; and
- f) please state the extent to which the parties to the merger are vertically integrated undertakings compared to their largest competitors.

Values must be stated in Danish kroner (DKK) and volumes must be stated in units. The value and volume of a market should be stated so as to reflect output less exports plus imports for the geographic areas under consideration.

8.2. Please also provide names, addresses, e-mail addresses and telephone numbers as well as contact persons for each of the three largest customers of each of the parties to the merger

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<sup>1</sup> If less than five undertakings have a market share of 5 % or more, information must be provided about the top five competitors.

<sup>2</sup> HHI stands for the Herfindahl-Hirschman Index, a measure of market concentration. The HHI is the sum of the squares of all the undertakings' market shares in the market.

<sup>3</sup> The increase in concentration as measured by the HHI can be calculated independently of the overall market concentration by doubling the product of the market shares of the participating undertakings.

for each of the markets stated under 7.1. and for each of the three largest suppliers to the parties to the merger for each of the markets stated under 7.1.

## 9. Coordination aspects related to joint ventures

Section 12 c(3) of the Competition Act stipulates that to the extent that the creation of a joint venture constituting a merger pursuant to Section 12 a(2) also has as its object or its effect the coordination of the competitive behaviour of undertakings that remain independent, such coordination shall be assessed in accordance with the criteria of Section 6(1) and Section 8(1) of the Competition Act or Article 101(1) and (3) TFEU, with a view to establishing whether or not the transaction can be approved.

If the merger constitutes a joint venture as referred to in Section 12 a(2) of the Competition Act, the following information must be provided:

- a) Whether two or more parents will retain, to a significant extent, activities in the same market as the joint venture or in a market which is upstream or downstream from that of the joint venture or in a neighbouring market closely related to this<sup>4</sup>.

If the answer is affirmative, please indicate for each of the markets referred to:

- i. the turnover of each parent in the preceding financial year;
- ii. the economic significance of the activities of the joint venture in relation to this turnover, and
- iii. the market share of each parent.

If the answer is negative, please justify your answer.

- b) If the answer to (a) is affirmative and in the notifying party's view the creation of the joint venture does not lead to coordination between independent undertakings that restricts competition within the meaning of Section 6(1) of the Competition Act and possibly of Article 101(1) TFEU, reasons must be provided.
- c) Without prejudice to the answers to (a) and (b), please explain how the criteria set out in Section 8(1) of the Competition Act and possibly also Article 101(3) TFEU apply. The criteria for this are whether the transaction:
  - i. contributes to improving the efficiency of the production or distribution of goods or services or to promoting technical or economic progress;
  - ii. allows consumers a fair share of the resulting benefit;
  - iii. does not impose on the undertakings restrictions that are not indispensable to attain these objectives; and

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<sup>4</sup> Product markets are closely related markets when the products are either complementary to each other, i.e. when e.g. the use of one product essentially implies the use of the other product (e.g. for staple machines and staples, and printers and printer cartridges) or when they belong to a range of products that is generally purchased by the same set of customers for the same end use (such as whisky and gin sold to bars and restaurants or different materials for packaging a certain category of goods sold to producers of such goods).

- iv. does not afford the undertakings the possibility of eliminating competition in respect of a substantial part of the products or services in question.

## **10. Supporting documentation**

The following must be enclosed with the notification:

- a) the most recent audited annual financial statements and annual reports for each of the parties to the merger. Where undertakings have been sold or acquired after the conclusion of the most recent financial year, documentation must be enclosed;
- b) copies of the final or most recent versions of all documents concerning the merger, regardless of whether the merger is brought about by agreement between the parties to the merger, acquisition of a controlling interest or a public takeover bid;
- c) analyses, reports, minutes of board meetings and similar documents related to the merger; and
- d) flowcharts and similar overviews for each of the parties to the merger.

## 11. Declaration

Along with the information referred to in Sections 1-10 above, a signed declaration must be submitted in which the notifying party declares:

- that the information stated in this notification is correct;
- that complete copies of the documents required in Annex 1 are enclosed; and
- that all representations are made in good faith

If the declaration is made by another party than the participating undertakings, we/I, the undersigned, guarantee that the information, etc. is stated on behalf of all participating undertakings. We/I, the undersigned, and all notifying undertakings are aware of the penalty provisions in Sections 22 and 23 of the Competition Act, i.e. Consolidation Act No. 972 of 13 August 2010.

Place and date

Place and date

Place and date

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Signature

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Signature

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Signature