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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Working Party No. 3 on Co-operation and Enforcement

Efficiencies in Merger Control – Note by Croatia

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Antonio CAPOBIANCO
Antonio.Capobianco@oecd.org, +(33-1) 45 24 98 08.

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Croatia

1. Acquisition of direct controlling interest over Sunčani Hvar and Sunčani Hvar Nekretnine by Eagle Hills

1. Based on the data contained in the notification of the concentration, the statements of the notifying party, the defined structure of the relevant market that involved both the actual competitors (incumbents) and the potential competitors, the general market share indicators in the relevant market, the data received from the undertakings included in the survey, the post-merger market share of the parties to the concentration, the expected effects of the concentration in the form of benefits for the consumers, as well as other evidence based data, following the legal and economic study in the case concerned, and taking into consideration all factual, legal and economic circumstances, the CCA found that this concrete concentration was assessed as conditionally compatible subject to remedies within the meaning of Article 22 item 2 of the Competition Act (<https://www.aztn.hr/ea/wp-content/uploads/2023/05/COMPETITION-ACT-2021-consolidated-241122-ENG.pdf>).
2. Taking into account the structure of the relevant market with regard to existing and potential competitors, general market share indicators, information and documentation obtained from the undertakings, the CCA found that this concentration can only be allowed subject to remedies that would eliminate anticompetitive effects of the concentration in the hospitality sector market including accommodation and catering in hotels in the territory of Split-Dalmatia County.
3. Consequently, the CCA accepted the commitments undertaken by the notifying party Eagle Hills with the view to eliminating negative effects of the concentration concerned by reporting in a transparent manner about the compliance of its business activities within competition rules.
4. The following commitments have been undertaken by the notifying party:

1.1. Investment in the Target Company (primarily Sunčani Hvar) amounting to at least [20-30] million euro. This investment particularly relates to Hotel Sirena and Hotel Amfora.

5. The investment is not limited to these hotels and may also include other existing hotels and/or existing or new accommodation units of the Target Company.
6. Deadline for implementation: Five (5) years from the date of receipt of the CCA decision on conditional approval of the concentration concerned.
7. The notifying party believes that the efficiency gains of the proposed investment measure, particularly regarding the renovation and refurbishment of the accommodation capacities of Hotel Sirena and Hotel Amfora, would outweigh the potentially negative effects on competition:
 - Hotel Sirena: The investment will improve and contribute to the diversification of hotel offerings in the bay where Hotel Sirena is located, which is 2 km from Hvar town and has not been extensively utilized for tourism.
 - Increase in hotel supply on Hvar Island overall, especially outside the town centre of Hvar.

- Structural investments by the Acquiring Undertaking in the Target Company over a specific period can effectively eliminate potential anticompetitive effects by increasing the competitiveness of the Target Company.
- Positive effects on the local community such as the renovation of the promenade and beach access lighting, installation of a new Wi-Fi network across the bay, improvement of sewage systems to enhance environmental protection and sea cleanliness, introduction of new amenities such as a beach café, a children's play area, and new public toilets on the beach.
- Overall ESG (Environmental, Social, and Governance) effects: enhancing environmental and ecological sustainability by introducing a new drainage system, installation of more environmentally friendly LED lighting, roof thermal insulation and thermal insulation of water installations, reduction in electricity consumption and optimization of thermal energy usage.

1.2. Maintaining Existing Contracts with Croatian Suppliers

8. Sunčani Hvar and Sunčani Hvar Nekretnine, as undertakings under the control of Eagle Hills, must keep in effect all contracts concluded with existing suppliers of various products and services that have their registered office in the Republic of Croatia before the date of the receipt of the CCA decision on conditional approval. The commercial terms (including the payment terms and conditions) must remain substantially the same or more favourable than those agreed upon in the currently valid contracts with these suppliers.

9. Deadline for implementation: One (1) year from the date of the receipt of the CCA decision on conditional approval of the concentration concerned.

10. The notifying party believes that maintaining in effect all contracts with the existing Croatian suppliers, including those based on Hvar Island, will shorten the distribution chain, reduce the transport and distribution costs and maintain product specialization. At the same time, this would prevent the existing suppliers from being replaced by alternative suppliers engaged by Eagle Hills in other locations within the relevant geographic market. Maintaining in force the contracts with the existing suppliers in the stated period would minimize potential market failures, entry barriers and disruptions and imbalances in bargaining power. By preserving the market stability, accessibility and efficiency while supporting a competitive environment that ensures a level-playing field for all undertakings, this provision would provide long-term economic benefits and contribute to consumer welfare.

1.3. Increased Contract Value with Local Hvar Suppliers

11. The undertakings under the control of Eagle Hills – Sunčani Hvar and Sunčani Hvar Nekretnine, commit to increase the value of contracts concluded with suppliers of goods and services with their seat on Hvar Island (without excluding other suppliers from the broader relevant market and the Croatian market in general) by [0-10] % compared to the annual contract value signed with Hvar-based suppliers in 2024.

12. The total annual value of contracts signed with suppliers based on Hvar Island as of 30 November 2024, was [***] million euro, representing [20-30] % of the total annual value of all contracts signed with the Target Company's suppliers (a detailed table of suppliers has been attached to the case documentation).

13. Deadline for implementation: One (1) year from the date of the receipt of the CCA decision on conditional approval of the concentration concerned.

14. The notifying party believes that developing and increasing the annual value of existing supplier contracts for Hvar-based suppliers would strengthen the local supplier ecosystem, including improving their bargaining position. In addition, the developing and increasing the annual value of existing supplier contracts for Hvar-based suppliers and the suppliers with their seat in the Republic of Croatia would at the same time increase competitiveness of the local suppliers' market. It would shorten the distribution chain, reduce the transportation and distribution costs and maintain product specialization.

15. Finally, a more diverse, high-quality local supply chain, would make the market more resilient, efficient, and aligned with long-term economic and competitive principles.

1.4. Monitoring and Compliance

16. Upon the proposal of the notifying party the CCA has appointed PricewaterhouseCoopers as the monitoring trustee, who is required to submit an initial report to the CCA on the implementation of the measures within six (6) months from the date of the receipt of the CCA decision by Eagle Hills. To ensure compliance with agreed commitments, starting from the day of the submittal of the initial report, the monitoring trustee shall provide semi-annual reports on the effects of the implemented measures.

17. If Eagle Hills complies with the structural investment measure earlier than the five-year deadline (as verified by the monitoring trustee), the measure will be considered fulfilled, and further monitoring by the CCA will not be required.

18. Based on the above reasonings, the CCA accepted the proposed commitments as they have been deemed sufficient to eliminate the anticompetitive effects of the concentration concerned.

2. Concentration between Grand Automotive LLP/Grand Automotive RD Ltd. and Renault Nissan Hrvatska

19. Croatian Competition Agency conditionally approved the concentration between Grand Automotive LLP/Grand Automotive RD Ltd. and Renault Nissan Hrvatska. Grand Automotive LLP is an authorised distributor of Hyundai, Nissan and Ford new motor vehicles in the Republic of Croatia. In the post-merger period Grand Automotive LLP was to transfer its shares in Renault Nissan Hrvatska to a special purpose vehicle under its control – Grand Automotive RD Ltd.

20. In one reply to its request for information the Croatian Competition Agency (CCA) received the concerns of one undertaking active in the sales and servicing market as an authorised repairer and re-seller of spare parts. The undertaking who has requested confidentiality expressed its concerns relating to the alleged unequal treatment of the members of the selective distribution system, breach of confidentiality of data between competitors in the case of multi-brand servicing and practices denying or restricting access to original spare parts and technical information to independent repairers.

21. Consequently, in August 2022, the CCA accepted the commitments undertaken by the notifying party Grand Automotive LLP/Grand Automotive RD Ltd with a view to eliminating the negative effects of the concentration concerned within the set deadlines. Concretely, Grand Automotive LLP and Grand Automotive RD Ltd have committed to a transparent operation within the meaning of competition rules, application of equal selective distribution criteria to all members of the authorised distributors' network, ensuring confidentiality of information between competing multi-brand repairers and easier access to original spare parts and technical information to independent repairers.

22. During the assessment the CCA requested additional information and documentation from competitors in the relevant market: Porsche Hrvatska and Emil Frey Group as the most significant multi-brand importers and repairers, and other independent repairers.

23. The relevant markets in this particular case include: the sale of new motor vehicles (passenger cars and light commercial vehicles), the sale of original spare parts for Hyundai, Ford, Renault, Nissan and Dacia motor vehicles and the repair and maintenance of Hyundai, Ford, Renault, Nissan and Dacia motor vehicles, all in the territory of the Republic of Croatia. The brands of both the acquiring and the target company are present in the passenger cars and light commercial vehicles segments.

24. In 2021, in the sale of new motor vehicles in the passenger cars segment in the territory of the Republic of Croatia, the most significant market share was held by Porsche Hrvatska, the authorized representative of 5 motor vehicle brands, namely Volkswagen, Škoda, Audi, Seat and Cupra, that held a [20-30] % share. It was followed by Renault Nissan Hrvatska with a twofold smaller market share of about [10-20] %, and Emil Frey Group (Alfa Romeo, Citroen, Peugeot, Fiat, Jeep, Fuso, Smart, Mercedes-Benz, DS) with about [10-20] % share. Other market participants held the shares of less than 10 %. With the implementation of the concentration in question, the post-merger market share of the participants of the concentration in question will amount to [20-30] % and Grand Automotive LLP would become the most important competitor of Porsche Hrvatska.

25. In the sale of new motor vehicles in the segment of light commercial vehicles in the territory of the Republic of Croatia in 2021, the most significant market share was held by Emil Frey Group, an authorized representative for Alfa Romeo, Citroen, Peugeot, Fiat, Jeep, Fuso, Smart, Mercedes-Benz, DS), that was almost [30-40] % in the segment of light commercial vehicles, followed by Renault Nissan Croatia with around [20-30] % market share. Third place was taken by Grand Automotive LLP with about [10-20] % share. In the post-merger period Grand Automotive LLP will become the leading competitor in this market segment, with a post-merger market share of [30-40] %, followed by the current leader – Emil Frey Group with [30-40] %, and one percentage point less.

26. The relevant markets for the sale of original spare parts and the provision of repair and maintenance services for motor vehicles are closely linked and dependent on the market for the sale of new motor vehicles. This is due to the nature of the new motor vehicles sector, with obvious vertical links between the manufacturer and all the way to the final distributor, where it is common for an authorized importer, the representative of the manufacturer of a certain brand, to be authorised by the manufacturer to set up an authorized network of sellers and repairers for a particular brand, while the importer/distributor exerts very significant influence in the distribution pyramid scheme and usually has a significant market power in the aftermarket.

27. The markets for the provision of motor vehicle repair and maintenance services and the sale of spare parts are determined by the brand and thus separated from each other. With regard to the way of carrying out the mentioned activities, it is necessary to distinguish between authorized and independent repairers of motor vehicles of the brand, i.e., authorized and independent distributors of spare parts for the specified brand. Spare parts of a specific brand are usually distributed through an authorized repair network, therefore the distributors of spare parts of a particular brand are, as a rule, at the same time authorized repairers of that brand. In the case of malfunction, the consumer can only turn to a repairer that is trained to repair a specific brand and who has the appropriate special and diagnostic tools that, as a rule, differ from brand to brand. Consequently, the competitive constraints of the repairers of a particular brand on the repairers of other brands are rather insufficient.

28. In the motor vehicle sector, due to the presence of a complex supply chain, different economic entities operate and interact at different levels. When it comes to repairs and maintenance, authorized and independent repairers are service providers, while on the demand side the main participants are individuals and economic entities. Spare parts are supplied by original equipment suppliers, directly or by manufacturers, and by independent suppliers, while on the demand side the main participants are repairers and, to a lesser extent, economic entities that manage fleets and individuals. Therefore, when considering the aftermarket of motor vehicles, it is important to take into account its special features, one of which is reflected in the costs for the end customer. Namely, the costs borne on average by consumers for motor vehicle repair and maintenance services represent a very high proportion of total consumer expenditure on motor vehicles. Competitive conditions in the motor vehicle aftermarket also have a direct bearing on public safety, in that vehicles may be driven in an unsafe manner if they have been repaired incorrectly, as well as on public health and the environment.

29. Although competition between individual brands of vehicles within authorized repairers' networks is restricted by strict and detailed quality criteria and large investments required from authorized repairers, independent repairers continue to exert considerable competitive constraints on authorized repairers and give consumers the opportunity to choose with regard to the services provided and the prices. Namely, the business models and operating costs of independent repairers differ from those in authorized repairers' networks. Effective competition on the markets for the purchase and sale of spare parts, as well as for the provision of repair and maintenance services for motor vehicles, depends on the degree of competitive interaction between authorised repairers, as well as between authorised and independent operators, including independent spare parts suppliers and repairers. The latter's ability to compete depends on unrestricted access to essential inputs such as spare parts, repair tools or diagnostic or other equipment and technical information and data generated in the vehicle. Without access to these essential inputs, independent repairers would not be able to compete effectively in the marketplace with authorized repairers, as they would not be able to provide consumers with high quality services that contribute to the safe and reliable operation of motor vehicles. This aspect is becoming even more relevant with the increasing use of the installed digital technologies and the development of alternative fuel vehicles that require special know-how, tools and spare parts.

30. The inability to access the essential technical information can result in a decline in the market position of independent operators/repairers, which in turn produces harm to the consumers in terms of a significant reduction in the choice of spare parts, higher prices of motor vehicle repair and maintenance services, a reduction in the choice of repair and maintenance services providers and potential safety issues.

31. In the case concerned, after the implementation of the concentration in question, the acquirer will increase its market power by expanding the portfolio of motor vehicle brands for which it will be the authorized importer and the operator of the authorized distribution and repair network, and it will become one of three most significant authorized multi-brand importers in the territory of the Republic of Croatia, both in the passenger cars segment and the light commercial vehicles segment. Due to already mentioned special features of the sector in which it operates, it will have a significant impact on the entire distribution and repair network for Ford, Hyundai, Renault, Dacia and Nissan vehicles, especially on the secondary aftermarket. Namely, in all authorized service networks for Ford, Hyundai, Renault and Dacia vehicles (with the exception of Nissan), mixed qualitative-quantitative selective distribution system is in use, which, as a rule, is considered more restrictive than the purely qualitative distribution system, since it imposes additional criteria in terms of the limited number of authorized repairers. Grand

Automotive LLP also stated that it intends to keep the existing authorized network as in effect now.

32. Particularly regarding the restrictions that arise from the special features of the sector concerned, the role of the authorized importer of motor vehicles becomes important in the aftermarkets. Namely, the markets for the provision of motor vehicle repair and maintenance services and the sale of spare parts are defined by the brand and thus separated from each other. Therefore, the competitive constraints of the repairers of a particular brand on the repairers of other brands are rather insufficient. Consequently, the dual role of the authorized importer is to ensure, on one hand, effective competition between authorized repairers without breaching data confidentiality between competing undertakings by imposing the IT business systems that would compromise it, taking into account the fact that authorized importers are often, as and in the case concerned, the authorized distributors and repairers themselves and compete with other members of the authorized network. On the other hand, the authorized importer can contribute to effective competition between authorized and independent repairers, primarily by granting free access to essential inputs such as spare parts, tools, training, technical information and other data generated in the vehicle.

33. In light of increasing digitization and technological developments in the sector in question, denying or restricting access has multiple fallouts, both for independent repairers, who are usually smaller undertakings and for whom access to information, data and spare parts is a necessary prerequisite for their operation, as well as for end consumers, since any reduction in the choice of spare parts, or in the number of repairers, directly increases the price of maintenance during the vehicle's service life. At the same time, distinguishing between repairs and maintenance within the warranty period and outside the warranty period, and obtaining clear information from the authorized importer about what is mandatory and what is not for maintaining the warranty on the motor vehicle, also has a great impact.

34. As a result of the above, taking into account the structure of the relevant market with regard to existing and potential competitors, general indicators of market shares, information and documentation obtained from the undertakings, the CCA found that this concentration that can only be allowed subject to remedies that would eliminate anticompetitive effects of the concentration in the market for the sale of original spare parts for motor vehicles of the Hyundai, Ford, Renault, Nissan and Dacia brands, and in the market for the provision of repair and maintenance services for motor vehicles of the Hyundai, Ford, Renault, Nissan and Dacia brands in Republic of Croatia.

35. The CCA calls upon other authorised importers in the motor vehicle sector to bring their behaviour in compliance with the legal framework in effect.

2.1. Monitoring and Compliance

36. In 2024, CCA accepted the second, final report drafted by BDO Croatia d.o.o – the trustee monitoring the implementation of the remedies under the decision on conditionally approved concentration between the undertakings Grand Automotive LLP and Renault/Nissan from 2022.

37. The trustee's conclusion was that the remedies imposed by the CCA were appropriately selected and implemented, and they have helped the monitored party in the elimination of possible negative effects of the concentration on competition in the sales and servicing of motor vehicles. The compliance with the commitments has helped all competitors to access key infrastructure or technology and necessary know-how under non-discriminatory and transparent conditions.

38. In the trustee's opinion all commitments have been comprehensively and effectively complied with in accordance with the CCA decision, within the undertaken deadlines, producing the desired positive effects and permanently changing the conditions of competition for the better.

39. The CCA could therefore confirm that all the commitments listed in the CCA decision on conditionally approved concentration between the undertakings Grand Automotive LLP and Renault/Nissan have been complied with within the set deadlines.