

Competition - Estonia

New Rules in Concentration Control Increase Powers of Competition Board

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Amendments to the concentration control section of the Competition Act came into force on July 1 2006. Under the old Competition Act, turnover thresholds were calculated based on the worldwide turnovers of the concentration participants. As a result, the Estonian Competition Board had few decisions to make, as most companies did not meet the turnover thresholds and several big companies could merge without needing to notify the board. The amended act takes into consideration the Estonian sales turnover thresholds of the participants, and thus many more Estonian companies must notify the Competition Board of a concentration, providing the board with a clearer overview of the competition situation in Estonia. Furthermore, the amendments simplify the rules and procedure for concentration notification.

Since July 1 2006 40 mergers have been notified under the new rules. With greater control over concentrations and a better analytical grasp of the market situation, the Competition Board has predicted that it will now be in a position to make more second-phase decisions. In 2007 three second-phase concentration procedures have already taken place which, considering the size of Estonia, is remarkable - between 2003 and 2006 there were a total of six second-phase concentration procedures.

The most notable major concentrations in the past year and under the amended act are the mergers between:

- Estonia's largest telecommunications operator Elion Ettevõtte AS and Norby Telecom AS (a provider of internet broadband access);
- car dealer Nissan Nordic Europe OY (a subsidiary of Nissan Motor Co Ltd) and Nissan Baltic AS; and
- Estonia's largest and second largest gambling companies (Olympic Entertainment Group AS and Kristiine Kasiino AS respectively).

In general, the Estonian Competition Board follows the example of the European Commission on competition issues, and its behaviour in regards to and decisions on concentrations can be predicted based on EU practice in similar cases. However, Estonian Competition Board decisions may still vary from those of the European Commission as market situations in Estonia are sometimes wholly different from those analyzed by the commission. In practice, the Estonian Competition Board has not yet denied a concentration.

As the new turnover thresholds for notification of a concentration are now based on sales in Estonia, most of the companies planning to merge must notify the Estonian Competition Board. This enables the board to control effectively the competition situation in Estonia.

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