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Commission conditionally approves acquisition of MÁV Cargo

Rail Cargo Austria must remove structural links and review contractual links to GySEV – the European Commission gives conditional approval for the consortium of the two undertakings purchasing MÁV Cargo for HUF 102,5 billion.

On 27 November 2007 MÁV announced the result of the privatisation tendering for the purchase of 100 % of MÁV Cargo's shares: the consortium of Rail Cargo Austria AG (RCA) and GySEV won the tender with a bid of HUF 102,5 billion.

The privatisation-contract was signed on 2 January 2008 by RCA (a subsidiary of ÖBB Holding AG) and MÁV. Pursuant to the contract RCA acquires 85,5 % while GySEV acquires 9,5 % of MÁV Cargo's shares. The remaining 5 % of shares are offered for purchase to the employees of MÁV Cargo.

The transaction was announced by ÖBB Holding AG to the Austrian and Hungarian competition authorities on 15 January 2008. In the meanwhile, the European Commission pursued a preliminary investigation in the case. As a result, on 22 February 2008 the Directorate General for Competition of the European Commission informed ÖBB Holding AG and the GVH in a letter that due to the combined turnover of the undertakings in question the approval of the transaction fell within the competence of the European Commission. Thereby the parties withdrew forthwith their request for authorisation by the GVH that terminated its proceeding.

RCA submitted an application for the authorisation of its acquisition of control over MÁV Cargo to the European Commission on 25 August 2008. On 6 and 7 October 2008, in connection with the transaction in question the Commission obtained new information that meant material changes compared to the information given in the application submitted, and might, therefore, have significant effect on the assessment of the transaction. (However the Commission has not made the details available for public disclosure yet.) For the proper review of the changes occurred and the assessment of their impact the Commission restarted the investigation from 7 October 2008, the day when it received all the relevant information.

At the beginning of November 2008, the parties interested in the transaction offered commitments to the Commission. Taking into account all these mentioned, the Commission conditionally approved the acquisition on 25 November 2008. It established in its decision that the Hungarian MÁV Cargo and the Austrian RCA were both interested in rail freight transport and forwarding. Thereby the Commission approved the acquisition of the Hungarian undertaking on condition that RCA commit itself to cut its structural and review its contractual links to GySEV (Raaberbahn). The Commission concluded that the transaction modified in accordance with the commitments mentioned would not impede effective competition in the EEA or any substantial part of it.

Budapest, 26 November 2008

Hungarian Competition Authority
Communication Group

Further information:

András Mihálovits

Hungarian Competition Authority

Address: 1054 Budapest, V., Alkotmány u.5.

Postal address: 1245 Budapest, 5. POB. 1036

Tel: +36-30 618-6618

Email: Mihalovits.Andras@gvh.hu

<http://www.gvh.hu>