

**DECISION NO. 163**  
**of June 01, 2004**

**Regarding the authorization of the individual aid to be granted to**  
**S.C. OPTICA S.A. TIMISOARA**

**THE PRESIDENT OF THE COMPETITION COUNCIL,**

**Based on:**

- 1.** The Decree no 57 / 2004 regarding the appointment of the members of the Competition Council Plenum;
- 2.** The provisions of the Competition Law no. 21/1996, published in the Official Gazette, Part I, no. 88 of April 30, 1996, with the subsequent amendments and completions;
- 3.** The dispositions of the Law no. 143/1999 on state aid, published in the Official gazette, Part I, no. 370 of August 3, 1999, with the subsequent amendments and completions;
- 4.** The Regulation regarding the organization, functioning and the procedure of the Competition Council published in Official Gazette no. 288, Part I, of April 01, 2004;
- 5.** The Regulation regarding the form, the content and other details of the notification of a state aid published in Official Gazette no. 125, Part I, of March 24, 2000;
- 6.** The Regulation regarding the state aid for the rescue and restructuring of the firms in difficulty, published in the Official Gazette Part I, no. 470 of July 02, 2002;
- 7.** The notification of the intention to grant state aid to S.C. OPTICA S.A. Timisoara, submitted by the Authority for Privatization and Administration of the State's Allotment under Note no. VP<sub>3</sub>/340/06.04.2004, registered at the Competition Council as no. RS-AS 34/07.04.2004 that became effective on the date of the registration;
- 8.** The note of the Department for State Aid Authorization regarding the notified state aid.

**Based on the following:**

**1.** The individual state aid is granted to S.C. OPTICA S.A. Timisoara based on the Law no. 137/.2002 regarding some of the measures for the acceleration of the privatization, EGO no. 163/2000 for the reduction of the arrears from the state budget and GD no. 1110 / 2000 regarding the strategy for privatization.

**2.** The value of the state aid is ROL 21,318,091,353 and consist of :

- the facilities granted at the privatization based on the Law no. 137 / 2002 , respectively the adjournment for exemption, in total amount of ROL 12,099,589,584 representing :
  - interests and any kind of penalties related to the residual debit at the state budget, calculated until the date of the signing of the selling-buying contract ;
  - interests and any kind of penalties related to the residual debit at the state budget, calculated from the date of the signing of the selling-buying contract until the date of the releasing of the common ordinance;
  - interests and any kind of penalties related to the residual debit at the budget of the National Unique Fond for Health Insurance, until the date of the signing of the selling-buying contract of the shares.
- the facilities granted based on the EGO no. 163/2000 for the reduction of the arrears from the state budget in total amount of ROL 284,186,184 representing:
  - the reduction by 45 % of the sum representing majorities at the payment of the tax on profit;
  - the exemption for the payment of the majorities of delay related to the tax on wages;
- the facilities granted based on the GD no. 1110 / 2000 regarding the strategy for privatization., representing the adjournment for exemption in total amount of ROL 8,934,315,585 representing :
  - majorities of delay related to CAS (Contribution to the Social Insurances). at the General Directorate of Labor and Social Protection Timis;
  - majorities of delay related to the unemployment found 5% at the District Agency for the Occupation of the Labor Force Timis;
  - majorities of delay related to the building tax at the Local Council Timisoara;

**3.** S.C. OPTICA S.A. Timisoara also benefits of the facilities of the payment consisting of echeloning the payments of the residual debits at the date of the signing of the selling-buying contract of the shares at the state budget, the social insurance budget, the local budget and the budget of the National Unique Fond for Health Insurance in total of ROL 10,523,950,809. Because for the installments that must be paid are calculated adequate interests for a higher rate than the reference rate of National Bank of Romania, these have not been included in the total sum of the state aid.

4. The state aid consists of the exemption of the residual obligations will effectively be granted only after the payment of the last rate from the installment, respectively 15.02.2008.

5. The relevant markets are represented by the market of the production of eyeglasses lents and the market of the production of metal **semi-connectings**, and the geographical market is all the territory of Romania .

6. The analysis of the notified measure was accomplished according to the criteria of granting a state aid from the Regulation regarding State Aid for Rescue and Restructuring of the firms in difficulty. S.C. OPTICA S.A. Timisoara is a firm in difficulty because was confronted with a series of problems which influenced negative the production and the financial-economic activity, the analysis of the major indicators revealing the following : the reduction of their own capitals ( by 54.11% during a three years period ), the indebtedness degree in constant increase ( from 32.5% in 1999 to 67.7 in 2001- the year of privatization ), the decreasing trend of the patrimonial solvability, losses cumulated referring to the period 1999-2001 representing almost 53% from the joint stock, the decrease of the real value of the turnover, the progressive increase of the stocks.

7. The state aid is granted for the restructuring of S.C. OPTICA S.A. Timisoara, at the privatization, because the firm needed a financial restructuring for the functioning at normal parameters of the production activity, the investments assumed by contract by the buyer of the majority package of shares ( S.C. BEGA S.A. Timisoara ).

8. S.C. OPTICA S.A. Timisoara underlay an ample program of restructuring that consists of measures regarding the structural reorganization of the firm, measures that need a financial effort estimated at ROL 43,108 million. With the exception of the financial restructuring which will be realized in 2008, along with the effective granting of the state aid, the restructuring program was finished by the end of the year 2003.

9. By the implementing of the restructuring program is assured the reinvigorating of the firm on long term, fact demonstrated by the accomplishment of the target indicators in 2003. The financial restructuring component enables the possibility of the growth of the cash flow, of the insurance of a stable cash flow, which will relieve and will easy the financial activity of the firm.

10. The cost of restructuring raises to ROL 43,108 million, in the conditions in which the share of the firm at the financing of the restructuring program is ROL 21,790 million, representing 50.55% from the total financial effort.

12. The state aid is limited at the minimum necessary strict and will be used only in the scope of the return of the viability of the firm not allowing the beneficiary, during the time of enforcing the restructuring plan, to extent its capacity of production. This way are

met the dispositions of the article 14 from the Regulation regarding State Aid for Rescue and Restructuring of the firms in difficulty.

**13.** The applied state aid doesn't contort the competition and doesn't contributes to an excess of liquidity in order to be used in aggressive activities of the distortion of the competition on the market without relation to the restructuring process.

**14.** S.C. OPTICA S.A. Timisoara has never been granted state aid for restructuring meeting this way the dispositions of the article 18 from the Regulation regarding State Aid for Rescue and Restructuring of the firms in difficulty which stipulates the fact that the state aid for restructuring must be granted once.

**15.** The information presented in the notification submitted at the Competition Council reach to the conclusion that the individual state aid which is to be granted to S.C. OPTICA S.A. Timisoara is not able to affect the normal competition environment and it does not affect Romania's trade with the EU's Member States.

**16.** Based on the article 13 par. (1) of the Lawno. 143/1999 on state aid with the subsequent amendments and completions, the Competition Council will supervise constantly all the existing aids, and if is reached that the state aid granted to S.C. OPTICA S.A. Timisoara affects the normal competition environment and the trade of Romania with the EU's member states, the Competition Council will ask the state aid granter to take the adequate measures in order to eliminate the incompatibility with the Law no. 143/1999 on state aid with the subsequent amendments and completions and the relevant international agreements.

## **DECIDES**

**Art. 1.** Based on art. 12 (2) c) corroborated with art. 14 (1) e) of the Lawno. 143/1999, with the subsequent amendments and completions, authorizes the individual state aid for restructuring, that shall be granted to S.C. OPTICA S.A. Timisoara with the condition that the firm does not reduce the production capacity.

**Art. 2.** The value of the state aid to be granted is ROL 21,318,091,353 .

**Art. 3.** This Decision becomes effective on the date of its communication

**Art. 4.** According to the dispositions of art. 24 of the Lawno. 143/1999, with the subsequent amendments and completions, the authorities that grant state aid shall transmit to the Competition Council information regarding the authorized state aids, in order to inventorying and monitoring it.

**Art. 5.** According to the provisions of art. 29 in the Law no. 143/1999 on state aid with the subsequent amendments and completions, this Decision may be attacked by the persons concerned at the Court of Appeal Bucharest, Contentious Administrative Section, within 30 days from the delivery.

**Art. 6.** This Decision shall be communicated by the General Secretariat within the Competition Council:

- to the Authority for the Capitalization of State Assets , str. Cpt. Av. Alexandru Serbanescu, nr. 50, sector 1, Bucuresti;
- to S.C. OPTICA S.A. Timisoara, Calea Buziasului no. 11/A, Timisoara, jud. Timis.

**Art. 7** The General Secretariat and the Department for State Aid Authorization within the Competition Council shall supervise the execution of this Decision.

**PRESIDENT**

**MIHAI BERINDE**