



## **FORMAL OPINION**

### **with respect to the Government Decision on amending and completing Government Decision no. 761/2012 regarding the approval of the privatization of the National Company "Poșta Română" SA**

Assessing the Draft of Government Decision on amending and completing Government Decision no. 761/2012 regarding the approval of the privatization of the National Company "Poșta Română" SA, submitted by the Ministry for an Informational Society (hereby named MSI), by the address no.2280/02.09.2013 and registered at the Competition Council with no. RG/10960/03.09.2013,

## **COMPETITION COUNCIL**

Based on art. 20 recital 4) letter c) and art. 26 recital (1) letter l) of the Competition Law no. 21/1996, republished, with the subsequent amendments and completions<sup>1</sup> (hereby named the Law on competition), during the Plenum meeting held on 03.09.2013,

Issues a favorable opinion on the Draft of Government Decision on amending and completing Government Decision no. 761/2012 regarding the approval of the privatization of the National Company "Poșta Română" SA, with the following specifications:

1. It is necessary to consult the European Commission in order to make sure that the European law in the field of State aid is being met,
2. The privatization strategy of the National Company "Poșta Română" SA (hereby named CNPR) refers to the acquisition of 51% of the share capital of this company by the investor winning the bidding procedure. Therefore, the transaction has as result the shift in the control of CNPR, being, as a result, an economic concentration operation liable to be subject to the control of the Competition Council or the European Union, from the point of view of its compatibility with a normal competitive environment. Therefore, the Competition Council states that this opinion concerns the compatibility of the administrative measures undertaken by the MSI – or by the entities to whom it delegates its tasks, in order to privatize CNPR, only with the provisions stipulated by the Law on competition, and does not concern the compatibility of the resulted economic concentration operation with the normal competitive environment. We specify that this economic concentration operation will

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<sup>1</sup> Brought through the Emergency Ordinance no. 75/2010, approved, with amendments and completions, by the Law no. 149/2011.

be subsequently controlled, as a result of the individualization of the strategic investor, winner of the selection procedure.

As regards the reasoning of this opinion, we specify that the assessment of the normative act has not revealed any provisions likely to produce anticompetitive impact on the markets of postal services, likely to attract the incidence of art. 9 recital (1) of the Law on competition. Thus, the assessment of the draft of normative act did not reveal, at this moment, the existence of measures that would have as result:

1. the granting of a preferential treatment to certain undertakings or to lead to the exclusion of certain undertakings from the selection procedure to be performed in order to privatize the National Company "Poșta Română" SA, of such nature as to attract the incidence of art. 9 recital (1) of the Law on competition upon them,
2. the granting, subsequent to the privatization, in favor of CNPR, of an advantage likely to affect competition in postal markets in Romania (for example exclusive rights or special rights or other commercial advantages likely to produce such an effect).