Reply of the CEZ Group to the public consultation on the White Paper "Towards more effective EU merger control" (HT. 3053).

CEZ Group appreciates the efforts of the Commission to improve the EU merger control.

At the same time we honor the elementary principles of the EU Treaties, especially (i) the principle of division of competences, (ii) the principle of subsidiarity and (iii) the principle of proportionality.

The White Paper deals with two types of topics: (a) substantial and (b) formal.

With regard to (b) formal topics CEZ Group in general supports any measure to simplify procedures, clarify competences and increase cooperation between the Commission and the Member States’ competition authorities ("NCAs").

With regard to the (a) substantial part of the White Paper we are of the opinion that instead of introducing a “more effective EU merger control”, it would rather add administrative burden on business, significantly increase merger costs for businesses and, as a result have an adverse impact on M&A market which, of course, is a cornerstone of a competitive internal market.

First of all, we would like to express our opinion on the compliance of the White Paper with the principles of the EU Treaties:

i. Division of competences – cross border merger control is undoubtedly a topic that should be treated on EU level.

ii. Subsidiarity – we consider a topic of acquisitions of non-controlling shareholdings to be more appropriate and efficient to be regulated on national levels of Member States:
   - Given the fact that the Commission has prohibited only six mergers (i.e. majority shareholding acquisitions) since 2004 out of more than 5.000 notified (sec. 6. of the White Paper), the proposed amendment is with no doubt a “form over substance”.
   - Every Member State has its own equity market history and development, which materially differ. It seems to be more flexible and appropriate to leave
the competences to handle these specifics to the Member States rather than to adopt massive legislation at EU level for less than one relevant case per year.

- As for the Czech Republic, we do not see any company that could be effectively controlled by acquiring a share up to 20% of its shares. In case of acquisition of a minority share of the company together with additional shareholder rights, an issue of a joint control might always be challenged.

iii. Proportionality – given the number of six prohibited mergers out of more than 5,000 of majority shareholdings at EU level in the past ten years, we do not really see a substantial reason for attracting the problem of acquisition of non-controlling minority shareholdings to EU level. CEZ Group is of the opinion, that “tête à tête” the principle of proportionality the intention of regulating acquisitions of non-controlling minority shareholdings at EU level is unjustifiable.