CONDITIONAL APPROVAL FOR THE PKN ORLEN - PGNiG CONCENTRATION

* **The President of UOKiK has given conditional approval for the merger of Polski Koncern Naftowy Orlen and Polskie Górnictwo Naftowe i Gazownictwo.**
* **It may take place if Gas Storage Poland – which manages PGNiG's gas storage facilities – is sold.**
* **The remedies will ensure that competition is not restricted.**

**[Warsaw, March 2022]** PGNiG operates mainly in the area of production, import, storage, distribution and sale of natural gas. It is the largest gas wholesaler and retailer in Poland. Orlen operates mainly in the refining, petrochemical, liquid fuels and electricity sectors. It is the largest consumer of natural gas in Poland and it is also active in its sale.

European Commission was initially notified of the merger due to the worldwide turnover of the participants in the concentration. However, the EC granted the entrepreneurs' request and [referred the case to the President of UOKiK](https://uokik.gov.pl/news.php?news_id=17337). The Commission concluded that the merger would have an impact on Polish markets and the authority has experience in assessing them.

In the course of the proceedings, the President of UOKiK conducted an in-depth market survey of the concentration participants' competitors in the wholesale and retail sale of natural gas. In addition, the President of the Energy Regulatory Office and Gaz System – the operator of gas pipelines in Poland – were consulted. The analysis showed that the current situation on the natural gas market is characterised by PGiNG strengthening its position and PGNiG and PKN Orlen's competitors limiting their activities on the natural gas wholesale market. The maintenance of mandatory stocks by companies trading natural gas with foreign countries is a necessary condition for ensuring the viability of such activities. Despite Gas Storage Poland's formal independence from PGNiG, the lack of ownership separation creates an incentive to favour members of its capital group in Gas Storage Poland's operations. Therefore, there would be a risk that, post concentration, the merged entity could limit access to gas storage facilities to its competitors on the wholesale and retail gas markets.

At the same time, the investigation has shown that it is possible to issue a conditional decision with positive effects on competition. According to the decision issued by the President of UOKiK, the merger can take place on the condition that Gas Storage Poland – which manages gas storage facilities owned by PGNiG – is sold. By separating the ownership of storage facilities from their management, access to this infrastructure will be increased for external operators, i.e. the competitors of PGNiG and Orlen. The essence of the condition is, that the buyer of Gas Storage Poland cannot be active on the natural gas trading markets. In addition, the buyer will also need to be approved by the President of UOKiK. The condition is to remain in force as long as the share of the merged entity in the gas storage market in Poland is above 40%. The decision will remain valid for two years.

- *Fulfilling the condition will facilitate access to natural gas storage facilities for competitors of the participants in the concentration. This should create favourable conditions for increased natural gas imports by these entities. This is due to the fact that it will be easier to meet the obligations regarding gas storage imposed on importers under the energy law. As a result, more independent offers for natural gas, both wholesale and retail, may appear* – says Tomasz Chróstny, President of UOKiK.

According to law, a transaction shall be notified to the antitrust office if it involves entrepreneurs whose aggregate turnover in the preceding year exceeded EUR 1 billion worldwide or EUR 50 million in Poland. When assessing concentrations, the President of UOKIK may prohibit or approve them, or impose certain conditions that must be met for the applicant to receive approval. All decisions issued by UOKIK remain valid for two years.

The decision is not final. The applicant has the right to appeal to the Court of Consumer and Competition Protection. At the same time, we would like to inform you that [the UOKIK website](https://uokik.gov.pl/koncentracje.php) provides information on all antitrust proceedings pertaining to concentrations, which are conducted by the President of UOKIK.