



ΚΥΠΡΙΑΚΗ  
ΔΗΜΟΚΡΑΤΙΑ



**Decision CPC: 64/2018**

Case Number 8.13.018.31

**THE CONTROL OF CONCENTRATIONS BETWEEN ENTERPRISES LAW  
No. 83(I)/2014**

**Notification of a concentration concerning the acquisition of a part of share capital of D.Med Consulting GmbH by Fresenius Medical Care AG & Co. KGaA through, Fresenius Medical Care Beteiligungsgesellschaft mbH, Bad Homburg v.d.H., Germany.**

Commission for the Protection of Competition:

Mrs. Loukia Christodoulou,	Chairperson
Mr. Andreas Karidis,	Member
Mr. Aristos Aristidou Palouzas,	Member
Mr. Panayiotis Oustas,	Member
Mr Polinikis-Panagiotis Charalambides	Member

Date of decision: 19/12/2018

**SUMMARY OF THE DECISION**

On 16/11/2018, the Commission for the Protection of Competition (hereinafter the “Commission”) received on behalf of Fresenius Medical Care Beteiligungsgesellschaft mbH, Bad Homburg v.d.H., Germany (hereinafter «FMC»), a notification of a proposed concentration. The notification was filed according to Section 10 of the Control of Concentrations between Enterprises Law 83(I)/14 (hereinafter the “Law”) and it concerns the acquisition of the 51% of the share capital of D.Med Consulting GmbH (hereinafter the “Target” or “DMC”) by Fresenius Medical Care AG & Co. KGaA,

through its wholly owned subsidiary, FMC. The remaining 49% of the share capital of the Target will remain under KR<sup>2</sup> GmbH (hereinafter «KR<sup>2</sup>»).

DMC is the target in this transaction and is incorporated under the laws of Germany. The said company is active in the field of development, marketing and consulting regarding medical products with a focus on dialysis technologies and related medical fields. This company belongs to the KR<sup>2</sup> GmbH which will remain as a shareholder in D.Med Consulting GmbH.

FMC is a limited liability company incorporated under the laws of Germany and is a member of the Fresenius Medical Care Group. The said Group is active in the provision of products and medical services, primarily for individuals undergoing dialysis as a result of chronic kidney disease and patients suffering from acute kidney failure.

KR<sup>2</sup> GmbH is a limited liability company incorporated under the laws of Germany. The said company is a global medical service and product provider focusing on kidney and diabetes care.

The transaction is based on a Sale and Purchase Agreement dated 23/10/2018, (hereinafter the “SPA”) according to which, FMC will acquire 51% of the share capital of the Target. The remaining 49% of the share capital of the Target will remain under the ownership of KR<sup>2</sup>.

Taking into account the above mentioned facts, the Commission concluded that the transaction in question constitutes a concentration within the meaning of Article 6(1) (b) of the Law, since DMC, will be jointly controlled by FMC and KR<sup>2</sup>, fulfilling on a lasting basis all the functions of an autonomous economic entity.

Furthermore, based on the information contained in the notification, the Commission found that the criteria set by section 3(2)(a) of the Law were satisfied and therefore the notified transaction was of major importance under the Law.

The Commission, for the purposes of evaluating this concentration, defined the relevant product/service market as: i) the supply and sale of dialysis equipment and dialysis products and the provision of dialysis services; ii) the provision of research and development services in the field of renal technology and iii) the sale of catheters for urological purposes.

Considering the above, the Commission concludes that there is no affected market based on Annex I of the Law. This concentration does not lead to any horizontal overlap relationship between the activities of DMC as the joint venture entity and its parent companies, FMC and KR<sup>2</sup> in the geographic market of Cyprus. There are also no other markets which the notified concentration may have significant impact.

According with the undertaking concerned, this concentration does not lead to any horizontal overlap, vertical integration or combination thereof in Cyprus and hence, the concentration will not affect the Cypriot market and its competitive environment.

The Commission, on the basis of the factual and legal circumstances, unanimously decided that this concentration does not create or strengthen a dominant position as there is no affected market and therefore the concentration does not raise serious doubts as to its compatibility with the operation of competition in the market.

Therefore, the Commission, acting in accordance with section 22 of the Law, unanimously decided not to oppose the notified concentration and declare it as being compatible with the operation of competition in the market.

Loukia Christodoulou

Chairperson of the Commission for the Protection of Competition