

THE CONTROL OF CONCENTRATIONS BETWEEN ENTERPRISES LAW

No. 83(I)/2014

Notification of concentration concerning the acquisition of the share capital of Fluidra SA
by 3 Founding Family companies of Fluidra SA

Commission for the Protection of Competition:

Mr. Andreas Karidis,	Presiding Member
Mr. Aristos Aristidou Palouzas,	Member
Mr. Polinikis Panayiotis Charalambides	Member

Date of decision: 30 December 2021

SUMMARY OF DECISION

On the 19th of November 2021 the Commission for the Protection of Competition (hereinafter the “Commission”) received on behalf of 4 founding family companies of Fluidra SA (hereinafter the «Founding Families») 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”).

The notification concerns the acquisition by the Founding Families of the share capital of Fluidra SA (hereinafter the «Target»).

Companies participating at this merger are the following:

1. According to the notification, in 1969 the Founding Families, which are Planes, Serra Duffo, Garrigós and Corbera Serra founded Fluidra in Spain.

The Fluidra Founding Families currently own their respective shares in Fluidra through the following special purpose entities:

- (i) Dispur Group: The Planes family owns shares in Fluidra, S.A. through Dispur, S.L. and Dispur Pool, S.L.U., which are Spanish entities (hereinafter referred to as the "Dispur Group"). Dispur, S.L. is the parent company of the Dispur Group, which belongs to various members of the Planes family.
- (ii) Boyser Group: The Serra Duffo family owns shares in Fluidra through Boyser, S.L. and Boyser Corporate Portfolio, S.L.U., which are Spanish entities (hereinafter the "Boyser Group"). Boyser, S.L. is the parent company of the Boyser Group, which belongs to several members of the Serra Duffo family.
- (iii) Edrem Group: The Garrigós family owns shares in Fluidra through Edrem, S.L. and Edrem Cartera, S.L.U., of Spanish entities (hereinafter referred to as the "Edrem Group"). Edrem, S.L. is the parent company of the Edrem Group, which belongs to various members of the Garrigós family.
- (iv) Aniol Group: The Corbera Serra family owns shares in Fluidra through Aniol, S.L. and Piumoc Inversions, S.L.U., of Spanish entities (hereinafter referred to as the "Aniol Group"). Aniol, S.L. is the parent company of the Aniol Group, which belongs to various members of the Corbera Serra family.

The aforementioned special purpose entities through which the Fluidra Founding Families hold their shares in Fluidra operate as parent companies.

The Fluidra Founding Families (individually or jointly) also control two entities with activities on a market next or previous step to the one in which Fluidra operates, namely:

- (i) Iberspa, S.L., (hereinafter referred to as "Iberspa") is jointly controlled by all the Founding Fluidra Families. It's a Spanish company that designs and manufactures spas for public and private use, both indoors and outdoors, hot tubs, swim spas and hot tub features.
- (ii) Preblau, S.L., which is controlled by the Planes family through Dispur Group. A Spanish company, which installs and builds swimming pools. Preblau does not have any turnover in Cyprus.

2. Fluidra is a company duly registered in accordance with the laws of Spain, with shares listed on the Spanish Stock Exchange and is active in the pool and wellness industry. Fluidra partially operates in irrigation and water treatment sector, handling of industrial and other liquids and engineering.

Fluidra since 2018, was jointly controlled by Rhône Capital L.L.C. (hereinafter "Rhône"), with a percentage of 42.42%, and the Founding Families of Fluidra with a percentage of 28.82%. Since 2019 Rhône's participation in Fluidra is steadily declining and now stands at 11.47% while the remaining percentage is publicly traded under the FRR on the Madrid Stock Exchange in Spain.

Therefore, according to the notification data, the change of control resulting from the reduction of Rhône's percentage in Fluidra, leads to a permanent change of control over the Target, from joint control by Rhône and the Fluidra Founding Families to sole control by the Fluidra Founding Families.

The Commission, taking into account the facts of the concentration, has concluded that this transaction constitutes a concentration within the meaning of section 6 (1)(a)(ii) of the Law, since it leads to a permanent change of control of target by the Fluidra Founding Families.

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 concentration was of major importance falling within the scope of the Law.

The Commission has concluded that the relevant product / service market in the present concentration is the provision of (a) pools equipment and (b) spas equipment.

The geographic market for the relevant markets for products is the territory of the Republic of Cyprus.

According to the notification, Iberspa, a company jointly controlled by the Fluidra Founding Families, manufactures and sells spas.

Based on the notification, both the Target and Fluidra Founding Families through Iberspa are active in the relevant market for the provision of spas equipment in Cyprus. Therefore, there is a horizontal relationship in the activities of the participating companies in the relevant market. The combined market share of the participating companies after the Transaction

exceeds the 15%. Therefore, the Commission found that an affected market emerges on the basis of the definition in Annex I of the Law.

Participants report that there are no barriers to entry in the relevant market for the provision for spas equipment.

Based on the evidence on file, the Commission concluded that the consumers interests are not in jeopardy.

The Commission notes that this transaction concerns the acquisition of the target from joint control to sole control by Fluidra Founding Families and therefore no significant difference will occur in the market due to the proposed transaction.

Based on the above and taking into account its relevant decisions 54/2017 and 34/2021, the Commission concludes that although an affected market is created because the threshold of 15% is exceeded with the combined share in the supply of spas equipment being between [15-30] % however, it does not create or strengthen a dominant position in the market. Also, the acquisition from joint to sole control of the target based on the evidence before the Commission to does not appear to cause any change in the behavior of the Founding Families through Fluidra.

As stated in the notification, there is no vertical and / or any other relation between the activities of the participants in the concentration, in Cyprus.

Taking into account the above, the Commission concludes that in this concentration an affected market is created based on Annex I of the Law. However, the Commission notes that any change resulting from the current merger does not raise new competition concerns or has a significant impact on the relevant markets where there is a horizontal overlap between the activities of the parties involved. In addition, there are no other markets in which the notified concentration may have a significant effect.

The Commission, on the basis of the factual and legal circumstances, unanimously decided that this concentration does not create or strengthen a dominant position and therefore the concentration does not raise serious doubts as to its compatibility with the operation of the 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 the competition in the market.

Mr. Andreas Karidis,

Presiding Member of the Commission for the Protection of Competition