



ΚΥΠΡΙΑΚΗ  
ΔΗΜΟΚΡΑΤΙΑ



ΕΠΙΤΡΟΠΗ ΠΡΟΣΤΑΣΙΑΣ  
ΤΟΥ ΑΝΤΑΓΩΝΙΣΜΟΥ

**Decision CPC: 39/2018**

Case Number 8.13.018.20

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

**Notification of a concentration concerning the acquisition of the share capital of mertus 435. GmbH, SUSE Linux GmbH and SUSE LLC, by EQT Fund Management S.a.r., through Marcel Bidco GmbH**

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: 13/8/2018

**SUMMARY OF THE DECISION**

On 31/7/2018, the Commission for the Protection of Competition (hereinafter the “Commission”) received on behalf of EQT Fund Management S.a.r.l. (hereinafter «EQTFM»), 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 proposed acquisition of the share capital of mertus 435. GmbH, SUSE Linux GmbH and SUSE LLC, by EQTFM, via Marcel Bidco GmbH (hereinafter “Bidco”).

EQT FM, is the management company of EQT VIII, an investment fund of EQT, a global investment firm that offers investors a wide range of alternative funds and other investment products.

Bidco is a company duly registered under the laws of Germany. Bidco was set up for the sole purpose of this acquisition.

The target in this merger is the share capital of mertus 435. GmbH (renamed as SUSE International Holdings GmbH), SUSE Linux GmbH and SUSE LLC. Mertus 435. GmbH and SUSE Linux GmbH are companies duly registered under the laws of Germany, whereas SUSE LLC is a company duly registered under the laws of the United States of America. The three companies constitute the SUSE enterprise which is an open source software activity that focuses on operating systems for servers and other infrastructure software.

The transaction is based on a Transaction Agreement Relating to the Marcel Software Business (hereinafter the "Agreement"), dated 1/7/2018. Based on the Agreement, EQT VIII fund will acquire via Bidco, the SUSE enterprise which consists of the share capital of mertus 435. GmbH, SUSE Linux GmbH and SUSE LLC.

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) (a)(ii) of the Law because it will result in a change of control on a permanent basis of SUSE enterprise which will be obtained by EQT VIII.

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 the market for the provision of open source software concerning functional systems for servers and other infrastructure software noting that any further sub-market segregation does not differentiate its assessment present merger. For the purposes of the present case, the geographic market was defined as the Republic of Cyprus.

Considering the above, the Commission concludes that there is no affected market based on Annex I of the Law. In addition, there are no vertical relationships or other markets which the notified concentration may have significant impact.

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 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.

Loukia Christodoulou

Chairperson of the Commission for the Protection of Competition