



ΚΥΠΡΙΑΚΗ ΔΗΜΟΚΡΑΤΙΑ

Decision CPC: 35/2017

Case Number: 8.13.016.22

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

**Notification of concentration regarding the Joint Venture under the name of VLPG PLANT LTD by the companies Hellenic Petroleum Cyprus Ltd, Petrolina Holdings (Public) Ltd, Synergas Cooperative Society and Intergaz Ltd**

Commission for the Protection of Competition:

Mrs. Loukia Christodoulou	Chairperson
Mr. Andreas Karidis	Member
Mrs. Eleni Karaoli	Member
Mr. Charis Pastellis	Member
Mr. Panayiotis Oustas	Member

Date of decision: 27 July 2017

**SUMMARY OF THE DECISION**

At its meeting held on 27/07/2017, the Commission for the Protection of Competition (hereinafter referred to as "the Commission") approved the merger to create a joint venture under the name VLPG PLANT LTD (hereinafter referred to as the "New Company") by the companies Hellenic Petroleum Cyprus Ltd, Petrolina (Holdings) Public Ltd, SYNERGAZ COOPERATIVE LTD and Intergaz Ltd (hereinafter the "Founding Companies / Companies") submitted to the Commission's Service on 23/11/2016. At its meeting held on 24/02/2017, the Commission noted that this merger was within the scope of the Merger Control Act 2014, Law no. 83 (I) / 2014 (hereinafter the "Law") and decided to proceed to a full investigation as serious doubts were raised as to its compatibility with the functioning of competition in the market

In the context of the full investigation, the Commission's Service requested additional information from the undertakings involved in the proposed concentration as well as third parties and the Ministry of Energy, Commerce, Industry and Tourism. Following that, negotiations took place between the Commission's Service and the participating undertakings with regards to any potential changes in the circumstances giving rise to the merger that could have as a result the lifting of the doubts ascertained by the Commission. As a result of the negotiations, the participating undertakings submitted their commitments. The Commission's Service has submitted a Report of Findings to the Commission.

The Commission, at its meeting held on 3/7/2017, assessed the Report of Findings and decided that there were still doubts as to the compatibility of the concentration with the functioning of competition in the market. The Commission, acting on the basis of the law, compiled a report with the objections ascertained in relation to the incompatibility of the concentration with the functioning of competition in the market and informed the participating undertakings to submit in writing their comments, any amendments to the concentration in writing as well as any other commitments so as to remove the doubts raised in the report with the objections. As a result, the companies submitted a number of commitments, with the full text of their final commitments, being submitted on 25/7/2017.

After examining and evaluating the proposed commitments submitted by the participating undertakings and the results of the full investigation of the concentration, the Commission considered that the commitments made by them were sufficient to remove the doubts raised by the Commission.

Therefore, the Commission, acting on the basis of Article 28 (1) (a) of the Law, decided unanimously to declare the concentration in question compatible with the functioning of competition in the market, subject to the commitments made by the participating undertakings and the conditions imposed by it. The commitments submitted by the participating companies and the terms imposed are valid for the whole time period that the New Company will be active and concern the following:

(i) Amendment of the Shareholders' Agreement and the Articles of Association of VLPG PLANT LTD so that the members of the Boards of Directors and the senior executives of the Founding Companies will not hold any position in the Board of Directors of the New Company.

(ii) A declaration by all New Company Directors that they will always keep and treat as highly confidential and will not disclose any confidential and / or sensitive information to the members of the Boards of Directors and the senior management of the Founding Companies, any business information and / or professional secrets of any new potential competitors in the LPG import and / or wholesale markets operating in the same markets as the Founding Companies, that will come to their knowledge due to their involvement / participation in the Board of Directors of the New Company.

(iii) A declaration by the General Manager and the Chief Financial Officer of the New Company that they will always keep and treat as highly confidential and will not disclose to the members of the Boards of Directors and / or the senior executives of the Founding Companies any confidential and / or sensitive business information and / or business secrets of any new potential competitors in the LPG import and / or wholesale markets operating in the same markets as the Founding Companies that will come to their knowledge as part of their activities as General Manager / Chief Financial Officer (as the case may be) of the New Company.

(iv) the above Declarations will be signed by the Directors whenever a new member is appointed to the New Company's Board of Directors. The same will apply in the event of a change of a General Manager and / or a Chief Financial Officer (if any).

(v) The New Company, throughout its operations, will act as an independent and autonomous entity.

(vi) The participating undertakings will appoint an independent trustee who will be responsible for verifying that all commitments are kept and will submit an annual report to the Commission within the first quarter of each year, confirming the implementation or not of the commitments by the New Company in relation to the previous year. The identity of that person / entity will be communicated to the Commission within one (1)

month of the notification to the involved parties of the Commission's decision that the concentration is declared compatible.

(vii) The New Company will provide its employees with a Competition Compliance Manual. This Handbook will be signed by all New Company employees.

(viii) The participating undertakings will amend the Shareholders' Agreement and add to it criteria that will be taken into account at the stage of assessing the storage capacity request from third parties.

(ix) The participating undertakings will notify to the Commission the Directors' and Secretary's certificate, as issued by the Department of Registrar of Companies, that will present the new members of the Board of Directors of the New Company, within two months from the notification to the parties of the Commission's decision, that the concentration is declared compatible, as well as copies of the relevant Declarations and a copy of the amended Shareholders' Agreement.

(x) The New Company will carry out its work on a commercial basis that will ensure its services will be offered at arm's length, in a transparent and non-discriminatory manner and based on a cost-oriented pricing policy.

(xi) Any transaction of the New Company with its Founding Companies will take place on commercial terms and at arm's length.

(xii) The New Company will publish the standard terms and conditions for the services of the storage space and the relevant pricelist on its future web site. This publication should be made at the start of the operations of the New Company.

(xiii) The New Company will provide any new entrant, which will proceed with the construction of LPG storage facilities in the area, access to the anchor and unloading pipes, to the extent that it will be under the control of the New Company. The New Company's Pricing Policy will be cost oriented. It is clarified that for all users of the New Company facilities, the use of anchorage and unloading pipes will be included in the services provided.

(xiv) If the demand for gas storage services for the domestic market is increased and any third parties contact the New Company for expansion of the New Company's facilities and storage space, the Parties involved will examine and assess the viability of such an extension.

The Commission notes that pursuant to Article 40 (1) (d) of the Law, where the concentration is implemented without the fulfillment of a condition imposed by the Commission pursuant to Article 28 (1) (a) of the Law, it may impose an administrative fine not exceeding ten per cent (10%) of the total turnover of the undertaking which has the obligation for notification, as defined in Schedule II, in the financial year immediately preceding the concentration and an administrative fine not exceeding eight thousand (8.000) euros for every day during which the infringement continues.

Finally, the Commission notes that under Article 45 of the Law the Commission may revoke any decision taken on the compatibility of any merger with the functioning of competition on the market or may alter the terms of the decision if it finds –

(a) that false or misleading information has been supplied or that necessary information relating to this concentration has been withheld by the notifying party or by any other participant in the concentration or by any interested person, or

(b) that any term imposed on the participants in the concentration by the said decision has not been satisfied or has ceased to be satisfied.

LOUKIA CHRISTODOULOU

Chairperson of the Commission for the Protection of Competition