



ΚΥΠΡΙΑΚΗ ΔΗΜΟΚΡΑΤΙΑ



ΕΠΙΤΡΟΠΗ ΠΡΟΣΤΑΣΙΑΣ  
ΤΟΥ ΑΝΤΑΓΩΝΙΣΜΟΥ

Decision CPC: 33/2020

Case Number: 8.13.020.16

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

**Notification of a concentration regarding the establishment of a joint venture from  
Limited Liability Company "Digital Assets" and natural persons, with a view to  
acquiring a part of the business of 2GIS Limited**

Commission for the Protection of Competition:

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

Date of decision: 30 July 2020

**SUMMARY OF THE DECISION**

On the 3 July 2020, the Commission for the Protection of Competition (hereinafter the "Commission") received on behalf of Limited Liability Company "Digital Assets" (hereafter the «Digital Assets») and natural persons 1 and 2, 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 said notification concerns a concentration whereby Digital Assets and natural persons 1 and 2 will jointly set up a company (hereinafter the “New Company”) to acquire part of the business of 2GIS Limited (hereinafter the “Target”).

The enterprises involved in this transaction are the following:

- Limited Liability Company “Digital Assets” (hereinafter “Digital Assets”) is a limited liability company duly registered in accordance with the laws of the Russian Federation and is an indirect subsidiary of the Public Joint Stock Company ‘Sberbank of Russia’. Digital Assets does not operate directly and acts as a holding company within the Sberbank Group. The Public Joint Stock Company “Sberbank of Russia” is listed on the Moscow Stock Exchange and the majority of its shares are held by the Russian Federation. The Sberbank Group deals with banking and financial operations as well as IT services, advertising technologies, cyber security, cloud services, biometric data, telemedicine, the FoodTech system, media and online marketplaces.
- Natural person 1, in addition to the Target, controls undertakings engaged in the rental and management of own real estate and the provision of travel services.
- Natural person 2 controls businesses engaged inter alia in medical, travel agency and hairdressing and beauty treatment services.
- The target in this concentration is the business activities of 2GIS Limited worldwide, apart from the Russian Federation, other countries of the Commonwealth of Independent States, Georgia, Ukraine, Turkmenistan and the Gulf countries (as defined in the Framework Agreement) concerning the development of digital maps and databases of entities and entrepreneurs that are natural persons (but does not sell digital maps and database solutions). Its main source of income is through the provision of advertising space on electronic services (webpage), mobile phone applications and computers through which users’ access and use digital maps and databases. It is noted that Limited Liability Company “DGSoft” (hereinafter “DGSoft”) and Limited Liability Company “Double GIS” (hereinafter “Russia 2GIS”) are not included in the Target.

The notified concentration is accomplished on the basis of the Framework Agreement (hereinafter referred to as the “Framework Agreement”) concluded on 10 June 2020. The Framework Agreement provides for a number of transactions agreed between the parties. As a result of those transactions;

- i. The Target Enterprise will be transferred from 2GIS Cyprus to the New Company;
- ii. 2GIS Russia will acquire 50 % of the New Company. The remaining 50 % will be held by natural person 2 (through a special purpose vehicle), and by natural person 1 (directly), and
- iii. Digital Assets will acquire a 71.94 % controlling stake in 2GIS Russia, which will remain the owner of 50 % of New Company.

The Commission notes that according to the enterprises, the New Company Shareholders Agreement, which concerns the establishment of the New Company and the Framework Agreement, are interrelated transactions which result in the acquisition of joint control over the Target by Digital Assets and natural persons 1 and 2, through the creation of the New Company.

According to the New Company Shareholders Agreement, its governance structure will be as follows:

- The board of directors of the New Company will be made up of two members. One shall be proposed and appointed by 2GIS Russia and the other by natural person 1 and natural person 2 (hereinafter referred to as “Shareholders- Natural Persons”). To this end, the Shareholders - Natural Persons will act jointly, therefore the appointed adviser must be approved by both,
- Any adviser may be dismissed at any time by the shareholder who appointed him;
- All matters within the competence of the Management Board (essentially all matters other than those to be decided by the General Assembly under the applicable law), including budgetary matters, must be approved by unanimous vote of all advisors;
- In order to have a quorum at a meeting of the Management Board, all administrative advisors must be present;

- Any action, decision or resolution taken by the shareholders must be adopted by a unanimous vote of all shareholders;
- In order to have a quorum at a general meeting, all shareholders must be present.

In view of the above, any shareholder of the New Company has a veto right on all decisions and matters relating to the affairs and activities of New Company. At shareholder level, the veto right is direct (since all decisions have to be taken unanimously and therefore a shareholder can block any decision), while with regard to the board of directors, the shareholder has indirect veto power through the adviser he appoints. Therefore, the Participants argue that Digital Assets (through 2GIS Russia), Natural Person 2 (through a special purpose vehicle) and Natural Person 1, will have joint control of New Company and Target Enterprise.

As stated in the Notice<sup>1</sup>, paragraph 65, joint control may exist even where there is no equality of votes or representation in decision-making bodies between the two parent companies or there are more than two parent companies. This is the case where minority shareholders have additional rights which allow them to veto decisions which are essential for the strategic commercial behavior of the joint venture. These veto rights may be set out in the statute of the joint venture or conferred by agreement between its parent companies. The veto rights themselves may operate by means of a specific quorum required for decisions taken at the shareholders' meeting or by the board of directors to the extent that the parent companies are represented on this board. It is also possible that strategic decisions are subject to approval by a body, e.g. supervisory board, where the minority shareholders are represented and form part of the quorum needed for such decisions.

As mentioned above, each shareholder and the managing director he appoints has a veto right on all matters, including decisions that are essential to the strategic commercial conduct of the Target Undertaking.

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,

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<sup>1</sup> Commission Consolidated Jurisdictional Notice under Regulation (EC) No 139/2004 on the control of concentrations between undertakings (2008/C 95/01).

since it leads to a permanent change of control into joint control of the operation by Digital Assets and natural persons 1 and 2 through the New Company of the Target.

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 (a) the provision of floating digital map databases, (b) the provision of entities' databases, (c) the provision of advertising space on the internet and (d) the provision of investment services. For the purposes of the present case, the geographic market for all relevant markets was defined as that of the Republic of Cyprus.

According with the undertaking concerned, this concentration does not lead to a horizontal overlap in the relevant markets.

According to the information in the notification, the Commission considered that a vertical relationship may arise between 2GIS Group and the Sberbank Group, both in the market for the provision of floating digital map databases and in the market for the provision of advertising space on the internet. However, as stated by the parties involved, the broad geographic scope of the relevant markets and the low market shares of the participating undertakings prevent foreclosure effects from occurring. For instance, the 2GIS Group does not have the possibility to prevent competitors of the Sberbank Group from accessing suppliers in the market for the provision of floating digital map databases or the market for the provision of advertising space on the internet. Similarly, the Sberbank Group will not be in a position to prevent its competitors from purchasing services in the markets where 2GIS Group operates. As 2GIS Group does not generate revenue through the sale of digital map databases, the parties involved are not in a position to give a market share by reference to turnover. However, it is estimated that around [10-20] % of mobile internet users in Cyprus use the 2GIS Group application.

The market share of the 2GIS Group for the year 2019 in the provision of advertising space on the internet in the Cypriot market according to the notification, is [0-5] %.

The Sberbank Group's market share in Cyprus in 2019 in the provision of investment services according to the notification, is [5-10] %.

According to the parties, there is no affected market since the market share of both the Sberbank Group and the Target in each of the above relevant product markets does not exceed the 25 % threshold. Considering the above, the Commission concludes that there is no affected market based on Annex I of the Law.

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.

On the basis of the above and all the information in the administrative file, the Commission concluded that there are no other markets on which the notified concentration may have a significant impact, based on the provisions of the Law.

Therefore acting in accordance with Article 22 of the Law, the Commission unanimously decides not to oppose the notified concentration and declares it compatible with the functioning of the competition in the market.

LOUKIA CHRISTODOULOU

Chairperson of the  
Commission for the Protection of Competition