



Decision CPC: 43/2022

Case Number: 08.05.001.022.032

THE CONTROL OF CONCENTRATIONS BETWEEN ENTERPRISES LAW

No. 83(I)/2014

Notification of a concentration concerning the acquisition of the voting rights of Level Access Goldings, Inc. by KKR & Co. Inc., via Access Group Purchaser, Inc.

Commission for the Protection of Competition:

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|---------------------------------|--------------------|
| Mr. Aristos Aristeidou Palouzas | Acting Chairperson |
| Mr. Andreas Karydis | Member |
| Mr. Panayiotis Ousta | Member |

Date of Decision: 29th of June 2022

SUMMARY OF THE DECISION

On 15/06/2022, the Commission for the Protection of Competition (hereinafter the “Commission”) received on behalf of Access Group Purchaser, Inc., 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 a concentration, according to which funds, investment vehicles and/or separately managed accounts advised and/or managed by one or more subsidiaries of KKR & Co. Inc., (hereinafter “KKR”) via Access Group Purchaser, Inc. (hereinafter “Access Group Purchaser”), intend to acquire the voting rights of Level Access Goldings, Inc. (hereinafter the “Target”).

The participating parties are the following:

- Access Group Purchaser is a private company duly registered under the laws of The State of Delaware, of the United States of America. It is a special purpose vehicle with no previous business activities, which was established for the purposes of this transaction. It is indirectly controlled by funds, investment vehicles and/or funds, investment vehicles and/or separately managed accounts (SMAs) advised and/or managed by KKR.

KKR is listed on the New York Stock Exchange and is an international investment company that offers a wide range of alternative investment funds and other investment products to investors. KKR is a global investment firm offering alternative asset management, capital markets and insurance solutions. KKR finances investment funds that invest in private equity, credit and real estate and has strategic partners that manage hedge funds.

Each controlled KKR holding company has its own board(s), which generally includes one or more representatives of KKR, and is operated and financed independently of other controlled KKR holding companies.

- The Target in this merger is Level Access Goldings, Inc., which is a private company duly registered under the laws of The State of Delaware, of the United States of America. It provides software, consulting and training solutions to help companies to ensure that they have websites, mobile applications, software and other technologies that are accessible to persons with disabilities and to help companies protect themselves against legal risks by ensuring compliance with disability laws.

This concentration is based on the Transaction Agreement dated 25/05/2022 (hereinafter the “Agreement”) and an Agreement and Plan of Merger, dated 25/05/2022 (hereinafter the “Agreement and Plan of Merger”), pursuant to which Access Group Purchaser intends to acquire all securities with voting rights of Level Access, through merger. Access Group Merger Sub, Inc., a wholly-owned subsidiary of Access Group Purchaser, will merge with and into Level Access, with Level Access surviving the merger and continuing as a wholly-owned subsidiary of Access Group Purchaser. Concurrently, upon completion of the transaction, Access Group Purchaser will acquire all of the securities with voting rights of eSSENTIAL Accessibility Inc. (hereinafter the “EA”), a Canadian corporation, as defined in the Agreement. The Service will not proceed with further relevant analysis as the company in question does not operate in Cyprus.

According to the data of the notification, the Service concludes that this transaction consists of two stages:

Stage 1: Under the terms of the Agreement, Access Group Purchaser intends to acquire all securities with voting rights of Level Access,

Stage 2: Under the terms of the Agreement and Plan of Merger, Access Group Merger Sub, Inc., a wholly owned subsidiary of Access Group Purchaser, will merge with and into Level Access, with Level Access surviving the merger and to continue as a wholly owned subsidiary of Access Group Purchaser.

In the light of the above, the Commission concludes that the proposed concentration concerns two interrelated operations, namely (a) acquisition of all securities with voting rights of Level Access by Access Group Purchaser and (b) a merger of Access Group Merger Sub, Inc., a wholly owned subsidiary of Access Group Purchaser, with Level Access surviving the merger and to continue as a wholly owned subsidiary of Access Group Purchaser, which constitute a single concentration as referred to in article 7 of the Law, since the result of said actions is the acquisition, directly or indirectly, of control over the activities of one or more other companies.

The Commission, taking into account the facts of the concentration, has concluded that upon completion of this merger, KKR via Access Group Purchaser will acquire the sole control over the Target, in accordance with the provisions of section 6 (1)(a)(ii) of the Law

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 relevant product/services market in this case was defined as the market of digital accessibility solutions. In addition, the Commission concluded that the geographical market is defined, for the relevant market under reference, as that of the territory of the Republic of Cyprus.

According to the data of the notification, there is no horizontal overlap or vertical relationship between KKR and the Target in the Republic of Cyprus.

Taking into account the above, the Commission concludes that in this concentration no affected market is created based on Annex I of the Law. 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 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.

Aristos Aristeidou Palouzas

Acting Chairperson of the Commission for the Protection of Competition