



Decision CPC: 5/2020

Case number: 8.13.019.46

**THE CONTROL OF CONCENTRATIONS BETWEEN ENTERPRISES LAW
NO 83(1)/2014**

**Notification of a concentration regarding the acquisition by doValue S.p.A. of
the non-performing loan and real estate management platform controlled by
Alpha Bank Cyprus and Agi-Cypre Ermis Ltd**

Commission for the Protection of Competition:

Mrs. Loukia Christodoulou	Chairperson
MR. Andreas Karydis	Member
Mr. Panayiotis Oustas	Member
Mr. Aristos Aristeidou Palouzas	Member
Mr. Polynikis Panayiotis Charalambides	Member

Date of Decision: 24 January 2020

SUMMARY OF THE DECISION

On 30/10/2019 the Commission for the Protection of Competition (hereinafter the "Commission") received on behalf of doValue S.p.A. (hereinafter "doValue"), a notification of a proposed concentration.

This notification concerns the acquisition by doValue of the non-performing loan and real estate management platform controlled by Alpha Bank Cyprus (hereinafter "Alpha Bank") and Agi-Cypre Ermis Ltd (hereinafter "Agi-Cypre").

The enterprises involved in this transaction are the following:

- doValue S.p.A. (formerly doBank S.p.A), which is a company duly registered in accordance with the laws of Italy. doValue is a related entity of SoftBank Group

Corp., a Japanese multinational company, is listed on the Tokyo Stock Exchange (hereinafter the "SoftBank Group"). SoftBank Group is a leading company in an international portfolio of subsidiaries and affiliates engaged, among others, in advanced telecommunications, internet services, the Internet of Things, robotics and clean energy technology.

doValue is active in the management of non-performing loans on behalf of banks and investors and is among the main players in Southern Europe.

- Alpha Bank Cyprus Ltd which is a company duly registered in accordance with the laws of the Republic (hereinafter "Alpha Bank"). Alpha Bank is a credit institution, licensed by the Central Bank of Cyprus (hereinafter the "CBC"), in accordance with the provisions of the Business of Credit Institutions Law 66(I) of 1997, as amended. Alpha Bank is the seller in this transaction and chose doValue as the buyer of the target business through a competitive process.

Alpha Bank S.A., a Greek company, directly and indirectly holds 100% of Alpha Bank's share capital.

- Agi-Cypre Ermis Ltd which is duly registered in accordance with the laws of the Republic (hereinafter "Ermis", and together with Alpha Bank, the "Sellers"). Ermis is active in the possession and recovery of interest-bearing loans receivable. Alpha Bank S.A. directly and indirectly holds 100% of Ermis' share capital. Alpha Bank S.A. also directly and indirectly owns Umera Limited, a company duly registered in accordance with the laws of the Republic (hereinafter referred to as "Umera").
- The target enterprise in this transaction consist of the platform for servicing non-performing loans (hereinafter referred to as the "NPL") and real estate management (hereinafter 'REO'), which is currently under the control of Alpha Bank and Ermis (hereinafter the "Target"). Specifically, the Target is an in-house servicing unit of Alpha Bank, which serves NPL and manages REO held by Alpha Bank.

The transaction is based on an Enterprise Sale Agreement (hereinafter the "SBA") between doValue S.p.A., Alpha Bank Cyprus Limited and Agi-Cypre Ermis Limited. Also important, is the Loan Servicing Agreement (hereinafter the "SLA") which will be signed between Alpha Bank and doValue Cyprus upon completion of the SBA.

The Target is a business, currently carried out internally by Alpha Bank and Ermis. .
Based on the SBA, the Target will be transferred to doValue.

Given that the Law applies only to transactions and/or transactions that bring about permanent changes in the structure of the participating undertakings, the Commission must assess whether the notified act falls within the meaning of concentration, as this concept is defined in Section 6 of the Law.

In the said transaction, the Commission, after examining the information received from doValue and taking into account the terms of the two SLA and SBA Agreements, notes the following:

According to doValue:

The transaction will not lead – and could not lead – to any change of ownership over NPLs or REOs. doValue will simply provide the service of NPLs and the management of REO to Alpha Bank under the terms of the SLA, through the assets and Employees that will be transferred to it under the terms of the SBA, solely for the purposes of the Service.

The undertakings concerned indicate, in relation to the possibility that the transaction would constitute outsourcing, that it could also draw a basis from the regulatory framework governing credit institutions and specific aspects relating to outsourcing and loan payment delay management.

The framework applied to credit institutions – in this case Alpha Bank – consists of the Business of Credit Institutions Act 1997, as amended (hereinafter referred to as the "Credit Institutions Act") and secondary legislation adopted by the Central Bank of Cyprus, pursuant to the provisions of the Credit Institutions Act, which includes, among other things, the 2015 Delay Management Directive (hereinafter the "Delay Directive") and the 2014 Governance and Administration Arrangements Directive (hereinafter "Governance Directive"). In particular,

- (i) the Governance Directive, under Article 63(4), requires that credit institutions establish appropriate systems for the effective management of credit facilities in arrears and the conduct of feasible and sustainable debt restructuring, in accordance with the provisions of the [Delay Directive],

- (ii) as provided for in the Delay Directive under Article 3, its purpose is to implement by credit institutions efficient and effective strategies, policies, structures, procedures and mechanisms for managing delays and achieving fair and sustainable restructuring of the lending of borrowers in financial difficulties,
- (iii) outsourcing is provided for under the regulatory framework governing credit institutions – in particular, the Governance Directive sets out the basic principles of outsourcing under Part III of Annex 2 and provides, under paragraph (3) of that, that the institution should ensure that the award of work does not reduce its ability to fulfil its obligations to its customers and therefore does not affect the rights of the client vis-à-vis the institution, including the customer's ability to compensate.

The above regulatory obligations apply to all credit institutions. These obligations may not be waived or assigned to another Party and remain directly liable for compliance with these obligations at all times.

The transaction is essentially about the provision, by doValue to Alpha Bank, of the services that will enable Alpha Bank to comply with its obligations under its applicable regulatory framework to credit institutions. Therefore, it appears that the transaction does not affect Alpha Bank's liability for the fulfilment of its regulatory obligations, which include the effective management of NPLs and the conduct of a feasible and sustainable restructuring of NPLs.

As a result, Alpha Bank remains the creditor under the NPLs and retains full responsibility for compliance with regulatory obligations under the applicable framework in relation to the management and restructuring of NPLs. The role of doValue will be to provide the Service that will enable Alpha Bank to effectively manage the NPLs and conduct their feasible and sustainable restructuring.

The Commission, takes into account the following reasons as recorded in the notification, for which the transaction in question may be an outsourcing agreement and not a concentration:

- **No presence in the market**

The Commission takes into account paragraph 27 of the Commission's Jurisdictional Notice under Regulation (EC) No 139/2004.

In the said transaction, the assets transferred to doValue Cyprus purely enable the provision of doValue Cyprus' services to Alpha Bank under SLA. The Target is not acquired by doValue to develop a market presence, nor would it be possible to develop such a presence as the Target consist of the basic tools that will allow doValue Cyprus only to provide the Service to Alpha Bank.

The whole purpose of the transaction, according to the information provided in the notification, is to establish arrangements under which an activity currently carried out internally (in-house), i.e. the Service, is now carried out by doValue Cyprus under the terms of the SLA. As the parties involved state, the Agreement has been concluded so that doValue Cyprus acquires the means to conduct the Service – not for the purpose of doValue Cyprus acquiring an enterprise with a presence in the market, but solely for the provision of services to Alpha Bank (or Alpha CyCAC). doValue Cyprus will not participate as a player in the market for non-performing loan servicing and real estate management.

- **Possibility of repurchasing of the Target**

Alpha Bank, as mentioned in the SBA in Terms 13.1 and 13.2, will be able to repurchase the Target from doValue at the termination of the SLA.

- **Alpha Bank remains the creditor for the NPLs**

The transaction will not lead – and could not lead – to any change of ownership over the NPLs or REOs since the Transaction is not a settlement regulated under the provisions of the Credit Facilities And Related Issues Act of 2015, as amended, as it does not include transfers of property ownership or liabilities in connection with NPLs from Alpha Bank to another party. doValue Cyprus will simply provide the service of NPLs and the management of REOs to Alpha Bank under the terms of The SLA, through the assets and Employees that will be transferred to it under the terms of the SBA, solely for the purposes of the Service.

- **Final Decisions are taken by Alpha Bank**
- **doValue will provide services exclusively to Alpha bank**

The Commission takes into account paragraph 25 of the Commission's Jurisdictional Notice under Regulation (EC) No 139/2004.

As doValue itself confirms, under the present structure of the transaction, doValue Cyprus will not offer its services to any third parties at any point in the future, and will be established only to provide the Service.

Taking into account the possibility of repurchase of the Target, that Alpha Bank remains the creditor on NPLs and REOs, Alpha Bank remains responsible under the law for the management of NPLs, final decisions are taken by Alpha Bank, doValue will provide services exclusively to Alpha Bank, the termination of SLA may take place but above all that doValue will not have a market presence, the Commission concludes that it does not appear to be a permanent change in control either (i) from a merger of two or more previously independent undertakings or parts of undertakings, or (ii) from the acquisition by one or more persons already controlling at least one undertaking, or by one or more undertakings, directly or indirectly, by the purchase of securities or assets, by contract or otherwise, control of all or parts of one or more other undertakings, but neither is a joint venture, which permanently fulfils all the functions of an autonomous entity.

The Commission also noted its decisions Kalisee Ltd/ Hellenic Bank Public Company Ltd/APS Recovery Cyprus Ltd, Apollo/ Bank of Cyprus and the European Commission's decision APOLLO MANAGEMENT / CYPRUS COOPERATIVE BANK / ALTAMIRA CYPRUS.

The Commission, taking into account all the above, concludes that this act does not meet the criteria set out in Article 6 of the Law, so it does not need further examination. Therefore, acting in accordance with Article 22(1)(a) of the Law, the Commission unanimously decides that the notified concentration does not fall within the meaning of the concentration.

Loukia Christodoulou
Chairperson of the Commission for the Protection of Competition