



Decision CPC: 61/2021

Case Number: 08.05.001.021.050

## THE CONTROL OF CONCENTRATIONS BETWEEN ENTERPRISES LAW

No. 83(I)/2014

### Notification of a concentration concerning the acquisition of the share capital of M.C.P. Performance Plastic Ltd, by Faerch A/S

Commission for the Protection of Competition:

Mrs. Loukia Christodoulou,	Chairperson
Mr. Panayiotis Ousta	Member
Mr. Aristos Aristeidou Palouzas	Member
Mr. Andreas Karydis	Member
Mr. Polynikis-Panagiotis Charalambides	Member

Date of Decision: 13<sup>th</sup> of September 2021

#### SUMMARY OF THE DECISION

On 24/08/2021, the Commission for the Protection of Competition (hereinafter the “Commission”) received on behalf of Faerch A/S (hereinafter “Faerch”) 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, Faerch will acquire the 100% share capital of M.C.P. Performance Plastic Ltd (hereinafter the “Target”).

The parties involved in the concentration are the following:

- Faerch is a limited liability company, duly registered in accordance with the laws of Denmark. It is a supplier of sustainable protective packaging solutions for the food industry. Its product portfolio covers four business divisions of

packaging solutions, namely ready meals, fresh meat, food-to-go and dairy. Its clients are food producers, retailers and food services providers in Europe and worldwide.

It is wholly subsidiary of APMH Invest XIII ApS, which is fully controlled by APMH Invest A/S (hereinafter "APMHI"). APMHI is a wholly subsidiary of A.P. Møller Holding A/S (hereinafter "APMH").

APMH belongs to the Danish Foundation A.P. Møller og Hustru Chastine McKinney Møllers Fond til almene Formaal (hereinafter "A.P. Moller Foundation"). A.P. Moller Foundation is an industrial foundation, which has, inter alia, charity aims. It has not ultimate beneficiaries and is controlled by a Board of Commissioners.

APMH is the shareholder that controls the listed company A.P. Møller-Mærsk A/S (hereinafter "APMM"). APMM is an integrated transport and supply company. Its main activities are the regular container shipping, container terminal services, inland transport, inland services, supply chain management services, port towing and container-refrigerated construction.

- H M.C.P. Performance Plastic Ltd is a private limited liability company, duly registered in accordance with the laws of Israel. (hereinafter "MCP"). MCP USA, Inc. is a duly registered company in accordance with the laws of the USA (hereinafter "MCP USA") and is wholly subsidiary of MCP (hereinafter MCP together with MCP USA, the "Target").

The Target is active in the production of high-quality thermoplastic packaging solutions for the food industry and retail, serving food producers, brand owners and retailers in the US, Middle East and Europe. Its product portfolio covers the following packaging solutions: i) ready meals ii) fresh meat iii) frozen food iv) airlines v) bakeries. The Target offers a wide range of CPET (polyethylene crystalline terephthalate), APET (Amorphous Polyethylene Terephthalate) and PP (Polypropylene) discs.

The concentration is based on a Share Purchase Agreement dated 16/07/2021 (hereinafter "Agreement") between Plazit Industries A.C.S. Ltd. and Holdings and

Development Ha'maapil A.C.S. Ltd (the Sellers) and Faerch A/S (the Buyer). Based on this Agreement, Faerch will acquire the 100% share capital of the Target.

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, since it leads to a permanent change of control of the Target Company.

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 and geographic market in this case was defined as the market of the manufacture and supply of rigid plastic food packaging in the territory of the Republic of Cyprus.

Based on the notification, both Faerch and Target are active in the relevant market for the manufacture and supply of rigid plastic food packaging in Cyprus. Therefore, there is a horizontal relationship in the activities of the participating companies in the relevant market. However, the combined market share of the participating companies after the Transaction does not exceed 15%. As a result, there is no horizontal affected market.

Moreover, there is no vertical relationship between Faerch and the Target in Cyprus.

Taking into account the above, the Commission concluded that there is no affected market 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 the concentration does not create or strengthen a dominant position or 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