



Decision CPC: 40/2021

Case Number: 08.05.001.021.032

THE CONTROL OF CONCENTRATIONS BETWEEN ENTERPRISES LAW

No. 83(I)/2014

Notification of concentration concerning the acquisition of the share capital of the

Bountiful Company by Nestle S.A

Commission for the Protection of Competition:

Mrs. Loukia Christodoulou	Chairperson
Mr. Andreas Karidis,	Member
Mr. Aristos Aristidou Palouzas,	Member

Date of decision: 24 June 2021

SUMMARY OF DECISION

On the 27th of May 2021 the Commission for the Protection of Competition (hereinafter the “Commission”) received on behalf of Nestlé S.A (hereinafter the «Nestlé») 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 the acquisition by Nestlé S.A. of the share capital of The Bountiful Company (hereinafter the «Target»).

Companies participating at this merger are the following:

1. Nestlé is registered in accordance with the provisions of the laws of Switzerland. Nestlé is mainly active in the production, trade and sale of a great variety of food and beverages including dairy products, coffee, bottled water, cereals, culinary, chilled and frozen food, dry pasta, ice cream, chocolate beverages and tea, snacks and pet care products.
2. The Bountiful Company is a company duly registered under the laws of the United States of America. Company focuses on the food market globally, by producing, trade and supply the vitamins, minerals, herbal and other special supplements.

Based on the agreement, Nestle will acquire The Bountiful Company but not its subsidiaries (i) NBTY (2015) Limited (“Dr Organic”) (ii) Vita Health Products Inc. and (iii) operations related to other branded products such as “Pure Protein”, “Body Fortress”, “Met-Rx”, “Balance Bar” and “Best Bar Ever”.

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 target by Nestle.

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

Based on the above, the Commission has concluded that the relevant product market in this concentration is the market for the supply of food supplements (VMS). Any further subdivision into sub-markets does not differentiate the outcome of the evaluation of this operation.

The geographic market for the relevant markets for products is the territory of the Republic of Cyprus.

According to the notification, there is a horizontal overlap between the activities of Nestle and Target in Cyprus in the relevant market of VMS. According to the notification, the combined market share of the parties in Cyprus in the VMS market is [20-30]%. Therefore, there is an affected market in the supply of omega-3 supplement in the according to Annex I of the Law.

The Commission examined according to article 19 of the Law various factors in order to evaluate whether the proposed transaction create or strengthen a dominant position in the affected market.

The Commission assessed the expected development of demand, the turnover of each group of undertakings, the structure of the market, the interests of intermediate and final consumers and the existence of any barriers to market entry.

The Commission, taking into account the criteria set out in Article 19 of the Law for the assessment of a concentration, and on the basis of what is stated by the parties involved as well as the above analysis, concluded that the concentration was not likely to significantly impede competition in the Republic, in particular as a result of the creation or strengthening of a dominant position.

Additionally, as Commission examined, there is no vertical relation between the activities of the participants in the concentration and there are no other markets in which this transaction may have significant effects in Cyprus.

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.

Loukia Christodoulou

Chairperson of the Commission for the Protection of Competition