



Decision CPC: 69/2021

Case Number: 08.05.001.021.057

THE CONTROL OF CONCENTRATIONS BETWEEN ENTERPRISES LAW

No. 83(I)/2014

Notification of a concentration concerning the acquisition of the share capital of Intersect ENT, Inc. by Medtronic, Inc.

Commission for the Protection of Competition:

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

Date of Decision: 17th of November 2021

SUMMARY OF THE DECISION

On 18/10/2021, the Commission for the Protection of Competition (hereinafter the “Commission”) received on behalf of Medtronic, Inc. (hereinafter the “Medtronic”), 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, Medtronic, will acquire the share capital of Intersect ENT, Inc. (hereinafter the “Intersect” or the “Target”).

The parties of the concentration are the following:

- Medtronic is a duly registered company under the laws of the State of Minnesota of the USA, with shares listed on the NYSE, of its parent company Medtronic, plc. The activities of this company concern medical equipment and technology, and its

mission is to contribute to human well-being by applying biomedical engineering in the research, design, manufacture and sale of products for pain relief, rehabilitation health and prolong life. Its products deal with about 70 health conditions.

Project Kraken Merger Sub Inc. (hereinafter the “Merger Sub”) is a company duly registered under the laws of the State of Delaware of the USA, owned by Medtronic and incorporated solely for the purposes of this Act.

- Intersect is a duly registered company under the laws of the State of Delaware of the USA, with shares listed on NASDAQ and headquartered in Menlo Park, California. The company’s activities are related to medical technology and are dedicated to promoting the treatment of certain sinus conditions (sinus) through data-driven innovation, providing doctors with solutions to overcome clinical challenges and improve patients’ quality of life. Intersect manufactures bioabsorbable sinus implants used in postoperative sinus surgeries to reduce inflammation through medication.

The concentration is based on an Agreement and Plan of Merger - APM dated 06/08/2021(hereinafter “Agreement”). Based on this Agreement, Medtronic, will acquire 100% of the share capital of Intersect. Then, Merger Sub will merge with Intersect and after this merger, Intersect will continue as the surviving, wholly owned subsidiary of Medtronic, while Merger Sub will cease to exist.

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 were defined as the market of a) disposal of ENT Navigation Systems and (b) disposal of ENT power tools in the territory of the Republic of Cyprus.

Based on the notification, there is no a horizontal overlap between the activities of the participating enterprises. Particularly, Medtronic in 2021 was active in Cyprus through sales to a local distributor, which involved power tools and consumables (ie micro-splitters, blades, cutters and drills) as well as traditional and absorbable nasal packages while the Target was active in Cyprus in another sector.

In addition, according to the participating enterprises, there is no vertical relationship between the participating enterprises. It also concluded that there are no other markets in which the notified concentration may have a significant impact, based on the provisions 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 in the 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