

Competition - Cyprus

Public consultation on concentration control concludes

Contributed by **L Papaphilippou & Co LLC**

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From September 9 2013 to September 23 2013 the Commission for the Protection of Competition conducted a public consultation on two important draft pieces of legislation: the draft Concentration Control between Undertakings Law 2013 and the draft Protection of Competition (Amending) Law 2013.

This update concentrates on the draft Concentration Control between Undertakings Law, which (if approved by the House of Representatives) will repeal and replace the existing Concentration Control between Undertakings Law (22(I)/1999).

As stated in the commission's public consultation documentation, the purpose of the draft law is twofold. It aims to bring the Cyprus legislation on concentration control into line with the status quo in the European Union, as shaped by EU Regulation 139/2004, while also satisfying a condition stated in the memorandum of understanding signed by Cyprus and the 'troika' (the International Monetary Fund, the European Central Bank and the European Commission). Under the memorandum of understanding, the proposed legislation must be put into effect by the end of 2013.

The main amendments as proposed by the existing publicly available text of the draft law are as follows:

- As a cumulative condition for a proposed concentration to be considered a concentration of major importance, and for a duty to notify to arise accordingly, at least two of the participating undertakings in the proposed concentration must be engaged in commercial activities in Cyprus.
- The obligation to file a notification of concentration within a prescribed period will be abolished; instead, the undertakings obliged to notify must file the written notification with the commission before putting the concentration into effect.
- An administrative filing fee of €1,000 is to be paid when the notification of concentration is filed.
- An additional administrative fee of €6,000 is to be paid before the initiation of a full investigation process (ie, a stage two investigation).
- Participating undertakings may withdraw the notification of concentration by filing a withdrawal application with the commission.
- One of the criteria relating to compatibility with the competitive market (in terms of a presence in Cyprus) is to be modified. The proposed criterion provides that a concentration that is likely to hinder significantly competition within Cyprus, or an important part thereof – particularly as a result of the creation or strengthening of a dominant position – will be declared incompatible with the competitive market.
- When a full investigation is due to be carried out by the commission, participating undertakings will be provided with the opportunity to make changes to the proposed concentration or to make commitments in order to alleviate doubts as to the compatibility of the proposed concentration with the demands of the competitive market.
- It will be possible to conduct hearings before the issue of a commission decision regarding compatibility of the proposed concentration with the demands of the competitive market.

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