

OFFICE FOR FAIR COMPETITION

DECISION

COMP-MCCAA/03/2013

06 June 2013

Decision on an acquisition in terms of regulation 6(1)(i) of the Control of Concentrations Regulations (LN 294 of 2002 as subsequently amended)

The Office for Competition,

Having considered the notification of ICT Limited pursuant to regulation 5 of the Control of Concentrations Regulations,

Having considered the provisions of the Control of Concentrations Regulations,

Whereas,

1. On 9 May, 2013, ICT Limited notified the Office for Competition with a Share Transfer Agreement dated 26 April, 2013, whereby ICT Limited is to acquire sole control of Information Technology Services Limited. Specifically the entire issued share capital of Information Technology Services Limited (less two shares, which shall be held by the shareholders of ICT Limited, i.e., KFL Consulting Limited and Forestals Investments Limited respectively) shall be held by ICT Limited.
2. According to regulation 2 of the Control of Concentrations Regulations, there is a notifiable concentration where:
 - (i) two or more previously independent undertakings merge; or
 - (ii) one or more acquire, whether by purchase of securities or assets, by contract or by any other means, control of one or more other undertakings,

whether occurring in Malta or outside Malta when in the preceding financial year the aggregate turnover in Malta of the undertakings concerned exceeded €2,329,373 million

and each of the undertakings concerned had a turnover in Malta equivalent to at least 10% of the combined aggregate turnover of the undertakings concerned.

3. The undertakings concerned in the case of an acquisition of control are the buyer and the undertaking being acquired. In this case, therefore, the undertakings concerned are ICT Limited as the buyer and Information Technology Services Limited as the undertaking being acquired. Furthermore, according to regulation 3(5), the aggregate turnover of the undertakings concerned shall be calculated by adding together the respective turnovers of the undertakings concerned and the turnover of those undertakings with which the undertakings concerned have links consisting in the rights or powers listed in regulation 3(5).

4. Whilst the proposed transaction satisfies the requirement of a change in control of Information Technology Services Limited and whilst the aggregate turnover of the undertakings concerned in the preceding financial year exceeds €2,329,373 million, Information Technology Services Limited does not have a turnover in Malta equivalent to at least 10 percent of the combined aggregate turnover of the undertakings concerned as set out in the definition of concentration.

Conclusion

For the above mentioned reason and in terms of regulation 6(1)(i) of the Control of Concentrations Regulations, the Director General of the Office for Competition has therefore decided that the concentration notified does not fall within the scope of these Regulations.



Sylvann Aquilina Zahra

Director General