



REPUBLIC OF ALBANIA
-THE COMPETITION AUTHORITY-
-THE COMPETITION COMMISSION-

D E C I S I O N

Nr. 81 Dated 10 .06.2008

On

**“The exclusion from prohibition of the agreement entered between
American Exress Limited (AMEX) and ALPHA BANK A.E.”**

The Competition Commission, on its meeting held on 10.04.2008, with the participation of:

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|----------------------------|-----------------|
| ▪ Mrs. Lindita Milo (Lati) | Chairwoman |
| ▪ Mr. Lush Përpali | Deputy chairman |
| ▪ Mrs. Servete Gruda | Member |
| ▪ Mr. Koço Broka | Member |

Discussed the following issue:

Subject: The exclusion from prohibition of the agreement entered between American Exress Limited (AMEX) and ALPHA BANK A.E.

Legal basis: Law No. 9121, dated 28.07.2003 “On Protection of Competition”, as amended, Article 24, letter “d”, Articles 49 and 50, paragraph 1.

Upon reviewing the following:

- The report “On the exclusion from prohibition of the agreement entered between American Exress Limited (AMEX) and ALPHA BANK A.E” and the report ”submitted by the Secretary General;
- The agreement titled “American Exress Independent Agreement” with Alpha Bank AE;
- The Form on the Notification of Concentrations

NOTED THAT:

On 11.03.2008, the Competition Authority received the notification of Alpha Bank Albania for the exclusion from prohibition of the agreement **“American Express, Independent Agreement”**, entered into on 14 August 2007. The notification was received in compliance with Article 49 of Law No. 9121, dated 28.07.2003 “On Protection of Competition”, as amended.

I. The parties to the agreement

- **The licensor, American Express** is a well-known trademark in the credit card industry, with headquarters in New York, US. This trademark operates worldwide. In some countries it offers direct credit card services, in some others it enters the market through contracts with banks.
- **The licensee, Alpha Bank** was created as branch of Alpha Bank with headquarters in Greece. The address of Alpha Bank Albania is in Tirana, Boulevard “Zogu i parë”, Nr. 47 and the bank was created in compliance with the Law No. 9662, dated 18.12.2006, titled “On banks”.

II. Description of the agreement

Through this agreement, Alpha Bank Albania is authorized by AMEX to be in charge of the issuance of its credit card services in the country (Albania). In there is included the exclusive license stipulating that for 5 years Alpha Bank Albania is eligible for the following:

- a) Operate as Country Issuer (Albania) of domestic currency (Lek) AMEX credit cards;
- b) To operate as country owner (Albania) eligible to enter into contractual relations with persons in country (Albania), when such persons agree to become providers of local services.
- c) To become part of credit card services in country (Albania).

The rights of the licensee to issue credit cards in the domestic currency (Lek), through the use of trademark AMEX referred at in the Licensing Agreement of Trademarks shall be exclusively used for local currency (Lek) and within the territory of the Republic of Albania, and only for the following:

- (i) Credit Card American Express Gold;
- (ii) Credit Card American Express (Green);
- (iii) Credit Card American Express Gold Business.

These rights are granted to the licensee for a period of five (5) years.

In the Albanian banking system, American Express credit/debit card is offered by the American Bank of Albania and Credins Bank, but is done so only in hard currency (Euro or USD). The agreement under discussion does not interfere with their ability to continue to offer such services.

The conditions of the agreement stipulate that the rights enjoyed by the licensee by contract are not transferable, which means therefore that only AMEX enjoys the exclusive right to define the types of cards that the licensee shall issue.

Based on the contract the licensee shall operate as self-manager and not as agent of AMEX, which means that this agreement does not aim to create partnership relations or a joint venture between AMEX and the licensee.

III. The relevant market

III.1. The relevant product market

The agreement between American Express and the Alpha Bank defines the credit cards as the product.

The credit card service, is a service for the non-cash payments, offered to be performed through the card and by offering the client the option to be able to perform the payment even if his/her account is at zero. This service is a sort of short-term loan where the applied interest rate is higher than that of other types of loans. Alpha Bank A.E. shall issue Credit Cards American Express Gold, Credit Cards American Express (Green) and Credit Cards Express Gold Business in Lek.

III.2. The relevant geographical market

The signed agreement foresees that Alpha Bank Albania shall issue and own American Express credit cards without limitation, within the territory of the Republic of Albania. At the beginning, this service shall be offered in Tirana and Durrës, and in the subsequent years shall extend into the rest of the country. Alpha Bank operates in Albania through a network comprising 23 branches and 1 agency. Its branches operate in the cities of Tiranë, Durrës, Vlorë, Elbasan, Fier, Gjirokastër and Berat.

IV. Credit/debit card market

Until now, in Albania have been issued 14,564 credit cards. The credit cards may be issued either in local currency (Lek), or in foreign currency (Euro or USD). In spite of the currency in which it is issued, the credit card may cover payments in other currencies, as well, in accordance with the currency exchange rate applied by the credit card issuing banks.

Based on information from the Bank of Albania, in the banking system operate 12 banks that issue debit cards, and 7 banks issue credit cards. Credit cards occupy about 2.23% of the total number of cards issued and the number of transactions performed

with these cards represents about 3.8% of the total transactions. Raiffeisen Bank has the greatest share in the debit card market with about 56.3% of the market share, while Alpha Bank AE occupies about 1.6% of the market share. In the credit card market, the National Commercial Bank owns about 53.5% of the issued cards, while Alpha Bank owns only 2.3%.

V. The assesment of competition

V.1. Substitutability on the demand side. AMEX Credit Card, issued in the domestic currency (Lek), by Alpha Bank, has as its closest substitutes Master Card in Lek, issued by the National Commercial Bank, and Visa Card issued by the Tirana Bank. However, the cards issued in foreign currency are substitutes of this card, since the only added cost that this service may bear is the conversion commission.

V.2. Substitutability on the supply side. Since the agreement under discussion is of an exclusive type, no other bank is allowed to offer this type of credit card in domestic currency. Nevertheless, the other banks may approach / cooperate with other prestigious trademarks in the credit card system, such as Visa or Master Card.

V.3. New market entries. The market appears to be on its first phases and open to new entries. During the year 2008, Credins Bank shall introduce new products in the credit/debit card market in Albania, because intends to issue its Visa Card. Also, during 2008 Tirana Bank is preparing to offer Master Card service, and the National Commercial Bank (BKT) is starting to issue Visa Cards, and the Popular Bank is starting to issue Master Cards.

V.4. Developments under the competition standpoint

The implementation of this agreement with American Express in the domestic market shall **contribute** to the following:

1. Increase of supply in the credit/debit cards market;
2. Introduction of new, sophisticated and more qualitative products that would enrich the credit/debit card market;
3. Introduction of a new trademark in the Albanian market, the offer of a new product and prices, in response to customer demand;
4. Application of new marketing strategies to attract the customers;
5. The technologies required for the development of these products bring a novelty in the credit/debit card market, thus contributing in the development of technology.
6. AMEX credit card users shall be offered bonuses.

The implementation of this agreement will have a positive impact in the market, to include the level of services offered to the customers and the further developments on the payment methods.

V.5. Assessment on eventual limitations of competition

- The exclusivity agreement of AMEX card includes the provision of service by only one bank, but this circumstance does not preclude the provision of this service by other banks with other licensors (such as Visa and Master card).

Under the current conditions of our banking system, where Alpha Bank does not occupy a significant share in the banking market and in this particular product market, it is not expected that this agreement may produce anti-competition effects.

- The commercial freedom of the buyer, the licensee or the other undertakings is not subject to limitation, because the same product and services can be offered to them by other companies such as Master and Visa.
- The credit and debit card market in Albania is at the first phases of development and the introduction of American Express card is expected to enhance competition in the market.

FOR THE ABOVE REASONS:

Pursuant to Article 24, letter “d”, Article 7, paragraph 1 and Article 50 of Law No. 9121, dated 28.07.2003 “On Protection of Competition”, as amended, the Competition Commission,

DECIDED:

1. To exclude for a five (5) year period from the exclusion foreseen under Article 4 of Law No. 9121, dated 28.07.2003 “On Protection of Competition”, the licensing agreement “American Express, Independent Agreement” entered between American Express Limited (AMEX) and Alpha Bank A.E. on 14 August 2007.
1. The Secretary General is in charge of the publication of the authorization and the notification of the parties.
3. This decision enters into effect immediately.

THE COMPETITION COMMISSION

Lush Përpali
(_____)
Deputy Chairman

Servete Gruda
(_____)
Member

Koço Broka
(_____)
Member

CHAIRWOMAN
Lindita Milo (Lati)