

## Family enterprises as hidden champions

Dear [forename],

I am happy to present you our recent newsflash discussing the role of family enterprises in the German market also keeping an eye on M&A and real estate.

Now, I and my colleagues wish you a pleasant reading by also looking forward to any kind of feedback.

Best regards,

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### How it used to be

Family enterprises are often defined as companies, where a family or a single familiar person holds a minimum of 30 % of the company's shares. This influence normally establishes a will of continuance based on values represented by the family as such.

Referring to this definition the percentage of family enterprises in Germany conducts of about 91 % regarding the total amount of enterprises, not taking into account the companies regulated by public law.

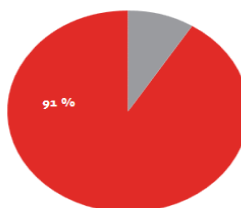
Looking on the sector of M&A and real estate only about 10 % could be named as family enterprises. This appearance can be based upon several reasons.

It is seen, that family enterprises generate an income of nearly 1500 billion euros per year (as at 2015), while only 23 % of those family enterprises dispose of more than 500 employees. With this it is clear, that family business is focused on the sector of medium-sized companies.

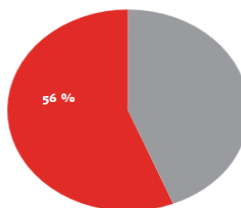
They focus more on sustainability rather than on volume of sales and profit maximization. With this those companies influence integration, culture, social life, and education in order to be part of regional identity. Those are values mostly manifesting itself in the businesses of industry and trade.

Real estate and M&A in contrast are usually embossed by measures of restructuring to keep up actuality and a stricter focus on outcomes influenced by greater flexibility of the market.

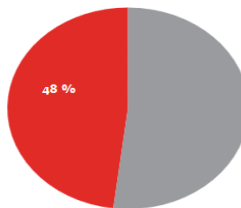
Percentage of total amount of enterprises



Percentage of total amount of employment



Percentage of total amount of income



But as figures show most employees are frightened by this kind of

development. They are looking for stronger relations towards their superiors in order to manifest long lasting confidence. Otherwise the people see a danger in greater concurrence and infightings between colleagues. Moreover it is obvious that the hiring of mostly younger persons leads towards a conflict between the generations as the younger ones feel more superior.

That this economic model is also not strengthening effectivity shows the fact that family businesses contribute to more than the half of the German GDP.

### **What is new**

But just now family enterprises seem to be endangered by past and recent political decisions while a future development could bring great benefits.

At first the sanctions against Russia which were introduced on the 12.09.2014 and will hold on until the 31.07.2016 have to be mentioned. By those several restrictions regarding the export of diverse goods – especially dual-use equipment – were set into force. As the export business with Russia lead to an outcome of more than 700 billion Euros, all businesses that delivered goods to Russia or that produced their goods in Russia have been affected. The trade of goods was proved carefully. A violation of the restrictions lead to administrative fines and conviction.

Even if the foreign minister of Germany as announced to look forward to a liberalization of the restrictions those are depended on the activities of Russia regarding the so called “Minsk agreement” and will only be introduced steadily.

Secondly one has to name the outstanding reform of the inheritance tax that has its origin in a decision of the Federal Constitutional Court in Germany that came up in 2014.

Two years ago the judges pronounced that especially the regulation that guarantees a freeing of 85 to 100 % of the business assets regarding the inheritance tax is not compatible to the German rule of equality (Art. 3 I GG). Although they argued that in general a freeing of the inheritance tax seems to be possible in accordance to a review of the single case.

Due to this the German parliament found new ways in order to reach its target. Nevertheless the new plans could possibly endanger family businesses. As an example there shall be a freeing of the inheritance tax if the taxable business asset amounts not more than 26 billion euros. After passing this limit there will be a review of the single case. Based upon this there is the risk that most of the family business will have to face those reviews and therefore will not benefit from the freeing of taxation. Moreover the private income of the heir or heiress shall be included into the review while stakes of companies not staying in the EU will be excluded. This builds up another burden for family businesses.

Coming up now, one has to state the transatlantic trade agreement between the USA and Europe called TTIP. Referring to this development most family businesses in Germany see a great perspective. Today about 45 % of the family enterprises are economical active in US markets. With TTIP the USA could possibly become the most important nation to trade just within a few years. A liberalization of duties and the cross approval of

standards are clear benefits while the protection of investment seems to be less important as family businesses are more focused on spreading their products than on investment in foreign projects. It will be the clue to keep up the international competitiveness.

### What does it mean for the future

New structures show that family businesses will adapt their habits due to the reasons mentioned above. Therefore it is getting clear that the right decision does not manifest itself in family businesses or none family businesses but in something between those two.

Market listed family-businesses seem to be more profitable than other structures. They are ruled by family members but also supported by investors due to their market listing. Sometimes a governmental influence leads to long lasting certitude. Companies like VW or Henkel have shown this in the past.

The reason is, that those businesses will profit from their long-term mentality, while the cost management stays constant, due to steady investment coming from outside. With this also international competitiveness is secured. Furthermore, the rule of families leads to continuance so that employees feel safer regarding a clear structure of future ways of business. Due to his upcoming development, the question whether family businesses or none family businesses are more profitable might become obsolete.

**tklegal Berlin LLP** is a German law firm and notarial office, with a focus on Corporate and M&A and Real Estate law and transactions. Feel free to contact us with any questions or comments.

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