



IMPACT OF COVID-19 ON GLOBAL MERGER CONTROL REVIEWS

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EU – DG COMP is encouraging merging parties to delay notifications and discuss timing of transactions with the relevant case teams, as DG COMP is facing difficulties in collecting information from the parties and the market (e.g., customers, competitors, and suppliers). Requests for information that stop the clock or instances of “pull and refile” cannot be excluded. However, DG COMP will review cases in which parties can show very compelling reasons to proceed with a merger notification without delay (DG COMP has been accepting simplified filings recently).



Austria – Merger notifications may only be submitted electronically. Review periods for deals notified after 22 March and before 30 April (and those already in Phase II) will only start running on 1 May. This does not affect the possibility of an examination being waived in urgent cases. Review deadlines for deals notified before 20 March are not impacted. Physical meetings on the authority’s premises will restart as of 18 May.



Belgium – The BCA is closing, and its staff is teleworking. Ongoing merger reviews may be delayed. The BCA is also inviting parties to delay notifications.



Bulgaria – The CPC is still accepting merger filings though electronic filings are recommended. Merger reviews are however suspended during the state of emergency.

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Croatia – The AZTN is operational and accepts merger filings (electronic or by post). Review deadlines are not suspended but some delays can be observed. The AZTN's premises remain closed for the time being.



Cyprus – The CPC is functioning normally and accepting notifications. Its staff is working on rotation or remotely. Deadlines have not been suspended. However, the CPC is expecting parties to only notify necessary deals.



Czech Republic – The Authority has not asked companies to postpone new merger notifications. So far the Authority is complying with normal time limits.



Denmark – The statutory deadlines within which the Danish Competition and Consumer Authority (DCCA) must review a merger had been suspended until 10 May (initially 13 April), although the DCCA clarified that it would try to comply with the ordinary time limits. This suspension has not been further extended for the time being.



Estonia – The Authority is working remotely and accepting notifications. Authority officials have not indicated that there will be a suspension of deadlines.

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Finland – The Finnish Competition and Consumer Authority has requested that notifications should be postponed where possible. Businesses planning to submit a notification should contact the Authority as soon as possible and expect delays in the review of their proposed mergers.



France – Review periods have been suspended since 12 March until up to one month following the end of the sanitary state of urgency. Parties are invited to delay non-urgent notifications. Only electronic communications are possible.



Germany – Filings can be made as usual but parties are asked to consider whether a project requires immediate notification, or whether it can be submitted at a later date. The German legislator is currently considering passing a new piece of legislation pursuant to which the review periods will be extended (Phase I will go from one month to two months, and Phase II will move from four months to six months). These amendments are set to apply to notifications submitted between 1 March 2020 and 30 May 2020. The purpose of these proposed amendments is to allow the FCO more time to conduct market surveys during the COVID-19 pandemic. No-issues deals should proceed as usual.



Greece – The HCC has adjusted its opening hours for the public. Parties must submit documents via email. Meetings and conferences will be held via a video-conferencing platform. The HCC has not communicated on the impact on timelines.

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Hungary – The HCA has asked parties to postpone their merger filings if possible. Pre-notifications and formal filings can only be made electronically. Review of no issues cases, eligible for the fast track procedure, should not be impacted. More complex cases are likely to be delayed, notably through the issuance of information requests that stop the clock. Financing transactions involving Hungarian public funds and implemented as part of a dedicated COVID-19 capital programme are exempt from notification.



Ireland – The CCPC is encouraging notifying parties when possible to delay filing planned merger notifications until further notice. The CCPC requests that notification forms and all supporting documentation be submitted in electronic format. The CCPC has confirmed that its statutory timetables for all pending review processes remain binding.



Italy – The AGCM has confirmed that deals notified between 23 February and 15 May (originally 15 April) will not be deemed notified until the review periods begin on 16 May.



Latvia – Business as usual, though the Competition Council is working remotely. No delays have been observed so far. The Competition Council, by law, does not have the right to stop the clock.

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Lithuania – The Authority has transitioned to organising its business remotely. The Authority has confirmed that some merger reviews are taking longer given the difficulties in collecting information from the parties and the market. Parties are invited to delay non-urgent notifications.



Malta – The MCCA is now operating by remote working. The MCCA is requesting all merger filings and supporting documents to be submitted in electronic format by email.



Netherlands – For the ACM, it is business as usual. Virtually all ACM employees work from home, and the ACM has cancelled all of its meetings. Delays in procedure are not excluded.



Poland – Legislation has been passed according to which review deadlines for (i) mergers notified before 14 March are suspended and (ii) mergers notified after 14 March will only start after the end of the state of emergency. In practice, the Authority is accepting and reviewing merger notifications but there may be some delay in adopting clearance decisions as the Authority is technically not bound by statutory deadlines.

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Portugal – The AdC is ensuring the continuity of its activities. Meetings and contacts shall take place through phone or videoconference. Merging parties should only use the AdC's electronic mergers notifications system (SNEOC) when notifying their deals.



Romania – Notifications shall be submitted by email, through the Council's website, or by post. All contact with parties shall be made through phone or by email. The Council is closed to visitors until mid-April. No noticeable impact on review timelines.



Slovakia – The Slovak Antimonopoly Office is up and running. It is accepting merger filings and deadlines are being adhered to. However, some delays might occur if market reviews are necessary. The Office has asked all parties to submit filings electronically or via post (and thus avoid in-person submissions).



Slovenia – The CPA is technically still accepting merger notifications (and parties should file within 30 days from signing to avoid fines for late filing) but the CPA encourages parties to postpone their filings where possible. In any event, the merger review periods will not start before 1 July.

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Spain – All administrative procedures, including merger control administrative procedures, have been suspended. However, parties can request time limits not to be suspended. Pre-notification for new deals remains advisable as the CNMC is technically fully operational.



Sweden – There is currently no impact on merger notifications and review periods. The SCA staff are to a large extent working remotely. Physical meetings have been replaced by calls or videoconferences.

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Bosnia & Herzegovina – The CC is accepting notifications (by post or email). The 15-day deadline to notify still applies. Merger review deadlines are not suspended but significant delays are observed (the CC currently only meets once a month). The CC is working with reduced capacities.



Iceland – The ICA is asking merging parties to delay new notifications. Procedures for cases that are not relevant to the response to COVID-19 may be delayed.



Montenegro – The Authority is accepting notifications (by post or email). The 15-day deadline to notify still applies. Merger review deadlines are not suspended but some delays can be observed. The Authority is working with reduced capacities.



North Macedonia – The Authority is accepting notifications (onsite, by post, or email). However, no clearance decisions will be issued during the state of emergency (tentatively until 18 May). The Authority is working with reduced capacities.



Norway – The Norwegian Parliament has adopted a temporary law extending the review merger deadlines by an additional 15 working days. The new deadlines entered into force on 17 April and apply both to concentrations currently under review and new notifications made between 17 April and 31 October. The NCA is encouraging its employees to work remotely. Meetings will be held by way of conference calls or video conferencing.

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Russia – FAS was closed and neither accepted nor reviewed merger filings from 30 March to 3 April. FAS has since reopened and is technically accepting and reviewing filings (most of the staff is working remotely), but delays can be expected in view of FAS' latest working arrangements.



Serbia – Serbia is no longer in a state of emergency, and the Serbian government has revoked the deadlines suspension regulation put in force on 24 March. If a review deadline elapsed during the state of emergency (between 24 March and 6 May), it will be deemed to have elapsed on 5 June. The CPC has suspended physical meetings, and merger notifications should be filed either by post or via email.



Switzerland – Official position is that the merger control procedures should not be delayed or impacted by COVID-19. In practice, pre-notification discussions tend to be longer. Merger filings can be submitted electronically.



Turkey – The TCA is up and running, accepting merger filings and complying with statutory timelines. The decision-making board is regularly meeting as before, and most of the case handlers are working remotely or on a shift basis. Merger filings will be submitted in electronic format through a designed online system during the COVID-19 outbreak.

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UK – The CMA will continue to progress ongoing merger investigations and has issued guidance on its approach to merger assessments during the COVID-19 pandemic. The CMA is not asking merging parties to delay notifications, but nevertheless encourages parties to consider whether some filings could be postponed (e.g., if a merger is not particularly well-advanced and may not ultimately proceed). Pre-notification talks may take longer because of difficulties in obtaining information from the merging parties and from third parties. The CMA will continue to use its power to issue mandatory information requests with deadlines. However, the CMA recognises that staffing shortages or remote working environments may make it harder for companies to meet mandatory deadlines for producing information. The CMA is unlikely to exercise its statutory finding power in such cases. However, the CMA may stop the clock if merging parties are unable to provide information in due time. In terms of substance, the CMA has confirmed that its review standard will not be relaxed and that interim measures will still be imposed when necessary. Given the economic impact of COVID-19, the CMA has also restated its approach to the “failing firm” defence (the CMA expects firms to claim more frequently that the target is failing, but will maintain the established (demanding) standard for establishing that a firm is “failing”). All meetings are being conducted remotely via videoconferencing or telephone, and the CMA is well prepared for remote working following a recent upgrade in technology infrastructure.

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Ukraine – The AMC’s merger unit is working as usual and accepting merger filings (which shall be delivered physically). No request to postpone filings have been made and no disruptions or delays have been observed so far. There is no observable trend of merger filings being rejected or requests for analysis under the fast-track procedure being denied.

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USA – FTC and DOJ have introduced a temporary e-filing system. The FTC resumed granting early terminations (ETs) – effective 30 March – and appears to be processing filings with minimal delays.

Substantive analysis, engagement, and feedback from the government are still likely to be slower.

- Both FTC and DOJ are teleworking. As staffs of both agencies work from home, delays should be expected because there is much that gets accomplished face-to-face that will not happen as quickly.
- Latham’s experience with the government shutdown in 2019 and prior shutdowns (and what can currently be observed) suggests that all phases of the government’s reviews/investigations will happen at a slower pace.
- During the 2019 shutdown, when the government maintained a skeletal staff in place, the agencies’ practice was to issue placeholder Second Requests to pause the clock on deals that the agencies didn’t have time to review, even if they didn’t raise any issues.
- This time is different because all FTC/DOJ staff attorneys are still working, albeit from home. Nevertheless, it is expected that the agencies will fall behind and that there is a prospect of the government issuing Second Requests in deals with very limited (or perhaps no) issues the agencies don’t have time to rule them out.

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Argentina – All reviews have been suspended until 10 May, inclusive. In practice, new notifications should be possible electronically (the Authority created a specific email address) if the deadline to file (*i.e.*, within 7 days from closing) happens during the lockdown. If not, the Authority is unlikely to accept the filing during lockdown.



Australia – The ACCC has cancelled all non-essential meetings and is transitioning to a larger proportion of staff working remotely. Merger filings are still accepted. Timelines for some reviews/applications may be extended where there are challenges in conducting the necessary market inquiries. The ACCC is asking parties to postpone mergers that are not urgent, more speculative or at a very early stage with no sale agreements in place. Regime is voluntary.



Botswana – The CCA's services remain closed until further notice. The CCA is not accepting any new merger filings and merger notifications that were being investigated prior to the lockdown will be temporarily suspended until after the state of emergency has ended.



Brazil – CADE's officials are working remotely, face-to-face meetings are being replaced by video conferencing, and judgment sessions of CADE's Tribunal will be held virtually. There have been no requests so far for parties to postpone notifications, and CADE's review periods remain unchanged, although delays in merger review cannot be excluded (especially when market testing is necessary). Deadlines for gun-jumping investigations have been suspended. A draft bill has proposed that certain agreements necessary to tackle the pandemic, such as joint ventures, may not need to be notified until 31 October.

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Canada – The Bureau encourages merging parties to contact case teams and management in the Mergers Directorate as early as possible on complex matters and throughout the conduct of a review. Timelines may be impacted. Notifications should be submitted via email or online forms. The Notification Unit is not reachable by telephone.



CEMAC – Merger notifications can still be submitted (also electronically). However, non-essential staff are working remotely and, as such, delays in the merger review can be expected.



Chile – The FNE issued specific guidelines on 25 March to address COVID-19. Parties are requested to postpone merger filings and only notify deals that are urgent and essential. Some formalistic requirements have been relaxed. Pre-notification is still possible but only through email.



China – SAMR has been working normally since mid-February, accepting notifications and with no delays to timetable reviews. SAMR has further established a “green channel” for expediting its review of mergers in key sectors for fighting COVID-19 (e.g., pharmaceuticals, medical equipment, food production) as well as other sectors severely impacted by the pandemic (e.g., catering and tourism). Simplified mergers have been reviewed 4% quicker during Q1 2020 (12.79 days) compared to Q1 2019 (13.39 days), amid COVID-19.

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Colombia – Merger proceedings have been reactivated since 12 May. Communications should only be made electronically.



COMESA – The CCC encourages electronic filings. Onsite investigations and in-person meetings have been suspended. Engagement with the CCC on the notification process within 30 days of the decision to merger is sufficient to avoid a fine for late filing. The CCC has announced that it may not be able to complete its assessment of mergers and acquisitions within the statutory 120 days. The regime is not suspensory.



Costa Rica – For now, it is business as usual and there is no noticeable impact on reviews. Filings must be submitted electronically and all in-person meetings have been cancelled.



Ecuador – For already-notified mergers, review deadlines are resumed if the SCPM has sufficient information to issue a decision (parties will be informed). If not, deadlines will resume only after the end of the state of emergency. New merger filings should be submitted by e-mail, so parties can comply with the eight-day filing deadline. Review deadlines will only start running if the SCPM has sufficient information on relevant markets and the deal is eligible for the newly established fast-track procedure. If not, the clock will only start when the state of emergency is lifted.

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Honduras – The CDPC has reopened and merger filings can now be submitted. Parties should coordinate with the CDPC officials before submitting any documents.



India – According to the CCI’s notice of 20 April, merger filings may be notified electronically. The CCI also allows pre-filing consultations through videoconferencing. The CCI will review new filings subject to the availability of necessary information and material. Delays cannot therefore be excluded. Hearings are rescheduled until after 3 May.



Indonesia – The KPPU has now resumed its activities (since 7 April). Merger filings can be made and review periods are running again. The KPPU staff is working remotely. Regime is post-closing.



Israel – The Authority has announced that parties to a transaction can approach the Authority if the COVID-19 crisis is likely to cause irreversible harm to the merging entities. A draft bill has also been put forward granting the Authority 90 additional days to review mergers where the initial 30-day statutory deadline ends before 30 June 2020.

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Japan – The JFTC is running as usual and has not communicated otherwise.



Kenya – The CAK is fully operational though most of the staff is working remotely. It is still receiving and processing merger notifications without noticeable delays. Electronic filings are encouraged. The CAK is trying to fast-track merger reviews where the merging parties are trying to bring a product faster to the market in response to the COVID-19 crisis.



Mexico – COFECE has taken measures against COVID-19. However, merger reviews will continue as usual and deadlines will be met. COFECE has announced that it will expedite the review of transactions that consolidate production capacity to address increased demand for popular consumer goods and the fight against COVID-19.



Morocco – The state of emergency has been prolonged until 20 May. All submissions – including new merger filings – should be made electronically. Meetings and hearings will be done remotely. No-issues cases should be reviewed within the standard timeframes. Review deadlines for complex/Phase II mergers may be suspended during the state of emergency.



Namibia – The NCC will be resuming normal operations from 11 May, although stakeholders are encouraged to continue using electronic means of communication.

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New Zealand – The CC is aiming to carry out its current merger applications within the timeframes agreed with the parties. Extension may be needed if there are delays in responding to information requests due to COVID-19. Parties are still able to file any new merger applications at any time. The CC will seek to prioritise merger approvals where the financial viability of a firm is in jeopardy because of COVID-19. Regime is voluntary.



Nigeria – Non-essential staff from the FCCPC is working remotely. The FCCPC will accept time sensitive and urgent merger notifications for review. Filings and supporting documentation can be submitted electronically.



Philippines – The PCC is closed until the quarantine is lifted. No new merger notifications are possible and review deadlines are suspended until then. The 30-day filing deadline has also been lifted.



Saudi Arabia – The GAC is closed since mid-March with all staff working remotely. Nevertheless, new merger filings are accepted and review processes are handled in time.

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Singapore – The CCCS has announced new measures in light of increasing local transmission of COVID-19. The CCCS remains operational and most of its staff is teleworking. Merger filings are still accepted, though prior contact with the CCCS is encouraged to obtain guidance on how to notify. The CCCS has not issued any communication providing for extended review periods.



South Africa – The country remains in a state of national disaster, due to expire on 15 June. During that time, the CC continues working remotely and has called for new merger filings to be deferred. New merger filings will nevertheless be accepted but the CC will immediately seek extensions of 60 business days for intermediate mergers and 120 business days for large mergers. CC investigations are taking longer than usual, prolonging review timelines. Very complex mergers that are opposed by the CC will not be set down during the lockdown period.



South Korea – The KFTC is running as usual, and new filings are being accepted. Requests for information that stop the clock can however be expected.



Taiwan – The TFTC is fully operational. All staff is working from the office and merger filings are accepted as usual. TFTC officials are considering dispersing staff into different offices or rotating working hours to prevent the impact of COVID-19, but no action has yet been taken.

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Uruguay – The new pre-closing merger control regime has entered into force. The Authority is open and merger filings can be submitted electronically. However, COVID-19 and the lack of implementing regulations regarding the new merger regime cast doubt on how the Authority will comply with the merger review periods.