

Merger Control Regulations

Merger Control Regulations

The Competition Commission of India (“CCI”) has recently issued merger control regulations which will require proposed combinations or the combined entity (if the combination has already come into effect), to notify the CCI of such merger within seven (7) days of board of directors’ approval for the merger or execution of the acquisition agreement. A combination includes a merger, an amalgamation, an acquisition of control, shares, voting rights or assets, which fulfill specified asset value or turnover thresholds. The merger control regulations have also extended the instances when notification to the CCI would be required, including in the following instances:

- an acquisition resulting from a gift or inheritance;
- an acquisition or acquiring of control by a liquidator, administrator or receiver pursuant to a court order or under other statutory regulations;
- where none of the parties to the combination is engaged in the production, supply, distribution, storage, sale or trade of similar or identical or substitutable goods or services;
- the parties to the combination are engaged at different stages of the production chain in different markets and their individual or combined market share is less than 20% in the relevant market; and
- an acquisition is of a trustee company or arises from a change of trustees of a mutual fund established under the Securities and Exchange Board of India (Mutual Fund) Regulations 1996.

Notices are required to be filed, in the case of mergers or amalgamations, only in regard to proposals approved by the board of directors of the parties, and in the case of acquisitions, where binding acquisition agreements are executed, in either case, on or after June 1, 2011.

The CCI would take a decision as to whether the combination is likely to cause or has caused an appreciable adverse effect on competition within the relevant market, within thirty (30) days of receipt of notice from the parties. Before coming to a decision, the CCI may require additional information or accept modifications to the combination, if any, offered by the parties. In that event, the time taken for furnishing additional information or for offering modifications would be excluded in calculating the thirty (30) day period. In case of the parties offering any modification, an extra fifteen (15) days will be taken by the CCI to evaluate the offered modification.

Before coming to a decision, the CCI may require additional information or accept any modifications to the combination (if offered by the parties). In that event, the time taken for furnishing additional information or for offering modifications would be excluded in calculating the thirty (30) day period. In case of the parties offering any modification, an extra (15) days will be taken by the CCI to evaluate the offered modification.

LexCounsel, Law Offices

C-10, Gulmohar Park
New Delhi 110 049, INDIA.

Tel.: +91.11.4166.2861
Fax: +91.11.4166.2862

Recommended by:



If the CCI is of the view that the combination does not, or is not likely to, have an appreciable adverse effect on competition, it will approve the combination. If the CCI is of the view that the combination has caused or is likely to cause appreciable adverse effect on competition, it will direct that the combination would not take effect.