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The Impact of the COVID-19 Crisis On Merger Control Procedures – International Overview

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Competition authorities worldwide have responded swiftly to a number of practical challenges resulting from the COVID-19 crisis. Measures that have been introduced in respect of merger control proceedings include: encouraging parties to delay notification of transactions; eliminating face-to-face meetings; requiring communications and documents to be submitted electronically; and suspending or extending statutory deadlines.

The table below provides examples of measures that have been adopted in a number of jurisdictions, as at March 30, 2020.

Jurisdiction	Impact on Review Period	Communication Limitations	Official statement
Austria	<p>The Austrian Federal Competition Authority (AFCA) is now accepting electronic submission of merger notifications.</p> <p>The statutory review period in relation to mergers notified before 30 April 2020 will start running on 1 May 2020.</p> <p>Where a Phase II review is pending at the Cartel Court at the time of entry into force of the Second COVID-19 Act, or will be pending by 30 April 2020, the review period will commence on 1 May 2020.</p>	<p>The AFCA offices are closed to the public until further notice, but staff are teleworking and handling cases. Meetings are to be held by teleconference.</p> <p>All in-person business conferences, meetings, personal appointments, summons and invitations to the Authority are cancelled until at least 13 April 2020.</p> <p>For emergency communications, the relevant email addresses are set out in the linked update.</p>	<p>AFCA (Update EN / DE)</p>

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Belgium	<p>The Belgian Competition Authority (BCA) has indicated that it will attempt to ensure continuity of public service, but that it expects that gathering information from parties and third parties will be more cumbersome whilst governmental containment measures remain in place.</p> <p>Companies have been invited to delay merger notifications that are not urgent.</p>	<p>The BCA offices are closed until further notice; staff are teleworking and the handling of cases will continue.</p>	<p>BCA (COVID-19 measures)</p>
Brazil	<p>The Administrative Council for Economic Defense (CADE) has announced the suspension of procedural deadlines relating to formal administrative proceedings under the Brazilian Competition Law. Merger review proceedings, merger review settlement agreements and preliminary investigations are outside the scope of the suspension.</p> <p>Fast track cases should not be affected, but slowdowns are anticipated with respect to more complicated matters that will require additional information gathering and/or CADE resources.</p>	<p>No face-to-face meetings; meetings are to be held by teleconference.</p> <p>As of 1 April 2020, the CADE Tribunal will hold "<i>virtual plenary sessions</i>", meaning that it will remain open to decide cases on appeal and other matters (such as decisions on cartel cases and other investigations).</p>	<p>CADE (Information Note EN / PT)</p>

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China	The State Administration for Market Regulation (SAMR) is operational. In the period between 3 February 2020 and 13 March 2020, SAMR on average concluded two merger review cases per day.	No face-to-face meetings; all submissions are to be made electronically.	SAMR status update
European Union	The Directorate-General for Competition (DG COMP) has encouraged parties to delay merger notifications where possible, until further notice.	<p>No face-to-face meetings; meetings are to be held by teleconference where possible.</p> <p>All non-essential staff are working remotely; staff who perform critical functions are working in shifts.</p> <p>Digital submissions will be temporarily accepted and are encouraged; hand deliveries to the offices will remain possible but must be organised in consultation with the Merger Registry.</p>	European Commission (Practical information on mergers)

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France	<p>The French Competition Authority (FCA) has suspended the statutory deadlines for merger review for the period from 12 March 2020 until one month after the end of the current state of emergency.</p> <p>The state of emergency is currently set for a two-month period commencing on 24 March 2020, but this period can be terminated earlier by decree.</p> <p>The FCA will “<i>use its best efforts</i>”, when possible, to issue its decisions without waiting for the end of the extended deadlines.</p> <p>Parties are invited to delay non-urgent merger notifications until further notice.</p>	<p>The FCA's premises are closed and physical deliveries are not possible. Companies are invited to communicate by electronic means.</p> <p>Communications sent to the FCA by registered letter from 12 March 2020 onwards must be sent again by electronic means.</p> <p>FCA staff are working remotely.</p>	<p>FCA (Adaptation of deadlines and procedures during the health emergency period EN / FR); (Adaptation of processes in response to COVID-19 EN / FR)</p>
French Polynesia	<p>The Polynesian Competition Authority (APC) cannot rule out that the current situation may cause some delays.</p> <p>Companies are invited to postpone non-urgent merger notifications.</p>	<p>The APC's premises are closed and its staff are working remotely.</p> <p>Notifications and exchanges are to be made by electronic means. Hearings are to be held via videoconference.</p>	<p>APC (COVID-19 measures FR)</p>

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Germany	The Federal Cartel Office (FCO) has asked undertakings and their representatives to consider in each case whether a notification can be postponed until a later date.	<p>The FCO remains operational for the time being and can be contacted as usual by e-mail, telephone, fax, and mail. Until further notice, it will not be possible to visit the FCO in person. Telephone conference calls can be arranged.</p> <p>An additional email inbox has been set up to ensure accessibility.</p>	FCO (COVID-19 measures EN / DE); (Additional email inbox EN / DE)
Hong Kong	The Hong Kong Competition Commission (HKCC) has not indicated that it expects any interruption of service.	<p>The HKCC offices are closed until further notice.</p> <p>The HKCC will be contactable through its hotline, email or online form.</p>	HKCC (Notice of temporary office closure)
Mexico	The Mexican Competition Authority (COFECE) has announced that from 23 March 2020 to 17 April 2020, legal time frames for procedures are suspended; merger review procedures and timelines are exempted from this suspension.	The COFECE offices remain open Monday to Friday during their regular hours.	COFECE (Notice on COVID-19)

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New Caledonia	<p>The Competition Authority of New Caledonia (ACNC) is aiming to ensure the continuity of public services. The ACNC will take into account difficulties faced by stakeholders in responding to requests for information and notes that such difficulties may have an impact on the duration of proceedings.</p> <p>Companies have been invited to delay all non-urgent merger notifications.</p>	<p>The ACNC's premises are closed and its staff are working remotely. Notifications and exchanges are to be made by electronic means and communication is to be made by email.</p> <p>Hearings and meetings are to be held via videoconference with the consent of the parties.</p>	<p>ACNC (Adaptation of proceedings in New Caledonia FR)</p>
Singapore	<p>The Competition and Consumer Commission of Singapore (CCCS) has not indicated that it expects any interruption of service.</p>	<p>The CCCS has requested that those who have travelled overseas within the last 14 days, are currently on Stay Home Notice or Leave of Absence, and/or have flu-like symptoms refrain from visiting the CCCS offices.</p>	<p>CCCS (Notice to visitors in light of COVID-19)</p>

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<p>United Kingdom</p>	<p>The Competition and Markets Authority (CMA) has stated that it will prioritise the "<i>most urgent and critical work</i>". It intends to continue progressing cases to meet binding statutory deadlines, but will monitor timetables and make amendments if necessary.</p> <p>There are no changes to current merger review timetables but merging parties might in practice be encouraged to delay notifications where possible.</p>	<p>CMA staff are working from home. All meetings are being conducted remotely via videoconferencing or telephone.</p> <p>CMA hearings will be conducted remotely.</p>	<p>CMA (COVID-19 update)</p>

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<p>United States</p>	<p>Early termination of the HSR waiting period will be granted as "<i>time and resources</i>" allow.</p> <p>The Department of Justice (DOJ) and Federal Trade Commission (FTC) may ask parties to "<i>pull and refile</i>" HSR filings, issue Second Requests, and/or ask parties already subject to Second Requests to enter timing agreements to allow more time for the merger investigations to take place.</p> <p>The DOJ will request an additional 30 days for timing agreements for all merger reviews that are currently pending or that may be initiated. If circumstances require, the DOJ may revisit its timing agreements with merging parties in light of further developments.</p>	<p>FTC and DOJ staff are now working remotely. Meetings will be handled by telephone or videoconference.</p> <p>All HSR filings must be submitted electronically.</p>	<p>FTC (FTC to resume processing HSR Early Termination requests); (Guidance to filing parties); (Changes in bureau procedure); (Premerger notification office implements temporary e-filing), and Justice.gov (COVID-19 process changes)</p>

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