

Merger Control

Jurisdictional comparisons

Second edition 2014

- Foreword** Jean-François Bellis & Porter Elliott, Van Bael & Bellis
Foreword Bernd Langeheine, Deputy Director-General, DG Competition, European Commission
Australia Luke Woodward, Elizabeth Avery & Morelle Bull, Gilbert + Tobin
Austria Dr Johannes P. Willheim, Willheim Müller Rechtsanwälte
Belgium Martin Favart & Mathieu Coquelet Ruiz, Van Bael & Bellis
Brazil Onofre Carlos de Arruda Sampaio & André Cutait de Arruda Sampaio,
O. C. Arruda Sampaio – Sociedade de Advogados
Bulgaria Peter Petrov & Meglena Konstantinova, Boyanov & Co
Canada Susan M. Hutton & Megan MacDonald, Stikeman Elliott LLP
China Janet Hui, Stanley Wan & Yi Su, Jun He
Republic of Croatia Boris Babić, Boris Andrejaš & Stanislav Babić, Babić & Partners
Cyprus Elias Neocleous & Ramona Livera, Andreas Neocleous & Co LLC
Czech Republic Robert Neruda & Roman Barinka, Havel, Holásek & Partners s.r.o.
Denmark Gitte Holtø & Asbjørn Godsk Falsesen, Plesner
Estonia Tanel Kalas & Martin Mäesalu, Raidla Lejins & Norcous
European Union Porter Elliott & Johan Van Acker, Van Bael & Bellis
Finland Katri Joenpolvi & Leena Lindberg, Krogerus Attorneys Ltd
France Thomas Picot, Jeantet Associés
Germany Dr Andreas Rosenfeld, Dr Sebastian Steinbarth & Caroline Hemler,
Redeker Sellner Dahs Rechtsanwälte
Greece Anastasia Dritsa, Kyriakides Georgopoulos
Hungary Dr Chrysta Bán, Bán S. Szabó & Partners
Iceland Helga Melkorka Óttarsdóttir & Hlynur Ólafsson, LOGOS Legal Services
India Farhad Sorabjee, Amitabh Kumar & Reeti Choudhary, J. Sagar Associates
Indonesia HMBC Rikrik Rizkiyana, Vovo Iswanto, Anastasia Pritahayu R. Daniyati &
Ingrid Gratsya Zega, Assegaf Hamzah & Partners
Ireland John Meade, Arthur Cox
Israel Eytan Epstein, Mazor Matzkevich & Shiran Shabtai, Epstein Knoller Chomsky Osnat Gilat
Tenenboim & Co. Law Offices
Italy Enrico Adriano Raffaelli & Elisa Teti, Rucellai & Raffaelli
Japan Setsuko Yufu & Tatsuo Yamashima, Atsumi & Sakai
Latvia Dace Silava-Tomsone, Ugis Zeltins & Sandija Novicka, Raidla Lejins & Norcous
Lithuania Irmantas Norkus & Jurgita Misevičiūtė, Raidla Lejins & Norcous
Luxembourg Léon Gloden & Céline Marchand, Elvinger Hoss & Prussen
Malta Simon Pullicino & Ruth Mamo, Mamo TCV Advocates
The Netherlands Erik Pijnacker Hordijk, De Brauw Blackstone Westbroek N.V.
New Zealand Neil Anderson & Jessica Birdsall-Day, Chapman Tripp
Norway Thea S. Skaug, Espen I. Bakken & Stein Ove Solberg, Arntzen de Besche Advokatfirma AS
Poland Jarosław Sroczyński, Markiewicz & Sroczyński GP
Portugal Diogo Coutinho de Gouveia & Eduardo Morgado Queimado, Gómez-Acebo & Pombo
Romania Gelu Goran & Razvan Bardicea, Biriş Goran SCPA
Russia Vladislav Zabrodin, Capital Legal Services LLC
Singapore Lim Chong Kin & Ng Ee Kia, Drew & Napier LLC
Slovakia Jitka Linhartová & Claudia Bock, Schoenherr
Slovenia Christoph Haid & Eva Škufca, Schoenherr
South Africa Desmond Rudman, Webber Wentzel
South Korea Sanghoon Shin & Ryan Il Kang, Bae Kim & Lee LLC
Spain Rafael Allendesalazar & Paloma Martínez-Lage Sobredo, Martínez Lage, Allendesalazar
& Brokelmann Abogados
Sweden Rolf Larsson & Malin Persson, Gernandt & Danielsson Advokatbyrå
Switzerland Christophe Rapin, Dr Martin Ammann & Dr Pranvera Källezi, Meyerlustenberger Lachenal
Taiwan Stephen C. Wu, Yvonne Y. Hsieh & Wei-Han Wu, Lee and Li
Turkey Gönenç Gürkaynak, Esq., ELIG Attorneys-at-Law
Ukraine Igor Svechkar, Asters
United Kingdom Bernadine Adkins & Samuel Beighton, Wragge & Co LLP
United States of America Steven L. Holley & Bradley P. Smith, Sullivan & Cromwell LLP

General Editors:

Jean-François Bellis & Porter Elliott,
Van Bael & Bellis

THE EUROPEAN LAWYER
REFERENCE

Merger Control

Jurisdictional comparisons

Second edition 2014

**General Editors:
Jean-François Bellis & Porter Elliott,
Van Bael & Bellis**



THOMSON REUTERS

General Editors
Jean-François Bellis & Porter Elliott,
Van Bael & Bellis

Commercial Director
Katie Burrington

Publisher
Emily Kyriacou

Chief Sub Editor
Paul Nash

Publishing Assistant
Nicola Pender

Design and Production
Dawn McGovern

Published in February 2014 by Sweet & Maxwell,
100 Avenue Road, London NW3 3PF
part of Thomson Reuters (Professional) UK Limited
(Registered in England & Wales, Company No 1679046.
Registered Office and address for service:
Aldgate House, 33 Aldgate High Street, London EC3N 1DL)

Printed and bound in the UK by Polestar UK Print Limited, Wheaton

A CIP catalogue record for this book is available from the British Library.

ISBN: 9780414033481

Thomson Reuters and the Thomson Reuters logo are trademarks of Thomson Reuters.

Crown copyright material is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland.

*While all reasonable care has been taken to ensure the accuracy of the publication,
the publishers cannot accept responsibility for any errors or omissions.*

This publication is protected by international copyright law.

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, or stored in any retrieval system of any nature without prior written permission, except for permitted fair dealing under the Copyright, Designs and Patents Act 1988, or in accordance with the terms of a licence issued by the Copyright Licensing Agency in respect of photocopying and/or reprographic reproduction. Application for permission for other use of copyright material including permission to reproduce extracts in other published works shall be made to the publishers. Full acknowledgement of author, publisher and source must be given.

© 2014 Thomson Reuters (Professional) UK Limited

Contents

Foreword	Jean-François Bellis & Porter Elliott, Van Bael & Bellis	v
Foreword	Bernd Langeheine, Deputy Director-General, DG Competition, European Commission	vii
Australia	Luke Woodward, Elizabeth Avery & Morelle Bull, Gilbert + Tobin	9
Austria	Dr Johannes P. Willheim, Willheim Müller Rechtsanwälte	37
Belgium	Martin Favart & Mathieu Coquelet Ruiz, Van Bael & Bellis	57
Brazil	Onofre Carlos de Arruda Sampaio & André Cutait de Arruda Sampaio, O.C. Arruda Sampaio – Sociedade de Advogados	83
Bulgaria	Peter Petrov & Meglena Konstantinova, Boyanov & Co	97
Canada	Susan M. Hutton & Megan MacDonald, Stikeman Elliott LLP	115
China	Janet Hui, Stanley Wan & Yi Su, Jun He	137
Republic of Croatia	Boris Babić, Boris Andrejaš & Stanislav Babić, Babić & Partners	147
Cyprus	Elias Neocleous & Ramona Livera, Andreas Neocleous & Co LLC	157
Czech Republic	Robert Neruda & Roman Barinka, Havel, Holásek & Partners s.r.o.	173
Denmark	Gitte Holtso & Asbjørn Godsk Falesen, Plesner	199
Estonia	Tanel Kalas & Martin Mäesalu, Raidla Lejins & Norcous	217
European Union	Porter Elliott & Johan Van Acker, Van Bael & Bellis	233
Finland	Katri Joenpolvi & Leena Lindberg, Krogerus Attorneys Ltd	263
France	Thomas Picot, Jeantet Associés	275
Germany	Dr Andreas Rosenfeld, Dr Sebastian Steinbarth & Caroline Hemler, Redeker Sellner Dahs Rechtsanwälte	297
Greece	Anastasia Dritsa, Kyriakides Georgopoulos	317
Hungary	Dr Chrysta Bán, Bán S. Szabó & Partners	333
Iceland	Helga Melkorka Óttarsdóttir & Hlynur Ólafsson, LOGOS Legal Services	349
India	Farhad Sorabjee, Amitabh Kumar & Reeti Choudhary, J. Sagar Associates	365
Indonesia	HMBC Rikrik Rizkiyana, Vovo Iswanto, Anastasia Pritahayu R. Daniyati & Ingrid Gratsya Zega, Assegaf Hamzah & Partners	381
Ireland	John Meade, Arthur Cox	399
Israel	Eytan Epstein, Mazor Matzkevich & Shiran Shabtai, Epstein Knoller Chomsky Osnat Gilat Tenenboim & Co. Law Offices	419
Italy	Enrico Adriano Raffaelli & Elisa Teti, Rucellai & Raffaelli	443

Japan	Setsuko Yufu & Tatsuo Yamashima, Atsumi & Sakai	461
Latvia	Dace Silava-Tomsone, Ugis Zeltins & Sandija Novicka, Raidla Lejins & Norcous	485
Lithuania	Irmantas Norkus & Jurgita Misevičiūtė, Raidla Lejins & Norcous	499
Luxembourg	Léon Gloden & Céline Marchand, Elvinger Hoss & Prussen	515
Malta	Simon Pullicino & Ruth Mamo, Mamo TCV Advocates	525
The Netherlands	Erik Pijnacker Hordijk, De Brauw Blackstone Westbroek N.V.	543
New Zealand	Neil Anderson & Jessica Birdsall-Day, Chapman Tripp	567
Norway	Thea S. Skaug, Espen I. Bakken & Stein Ove Solberg, Arntzen de Besche Advokatfirma AS	585
Poland	Jarosław Sroczyński, Markiewicz & Sroczyński GP	601
Portugal	Diogo Coutinho de Gouveia & Eduardo Morgado Queimado, Gómez-Acebo & Pombo	621
Romania	Gelu Goran & Razvan Bardicea, Biriş Goran SCPA	641
Russia	Vladislav Zabrodin, Capital Legal Services LLC	659
Singapore	Lim Chong Kin & Ng Ee Kia, Drew & Napier LLC	671
Slovakia	Jitka Linhartová & Claudia Bock, Schoenherr	697
Slovenia	Christoph Haid & Eva Škufca, Schoenherr	709
South Africa	Desmond Rudman, Webber Wentzel	725
South Korea	Sanghoon Shin & Ryan Il Kang, Bae Kim & Lee LLC	749
Spain	Rafael Allendesalazar & Paloma Martínez-Lage Sobredo, Martínez Lage, Allendesalazar & Brokelmann Abogados	761
Sweden	Rolf Larsson & Malin Persson, Gernandt & Danielsson Advokatbyrå	779
Switzerland	Christophe Rapin, Dr Martin Ammann & Dr Pranvera Këllezi, Meyerlustenberger Lachenal	791
Taiwan	Stephen C. Wu, Yvonne Y. Hsieh & Wei-Han Wu, Lee and Li	805
Turkey	Gönenç Gürkaynak, Esq., ELIG Attorneys-at-Law	819
Ukraine	Igor Svechkar, Asters	835
United Kingdom	Bernardine Adkins & Samuel Beighton, Wragge & Co LLP	853
United States of America	Steven L. Holley & Bradley P. Smith, Sullivan & Cromwell LLP	879
Contact details		905

Foreword

Jean-François Bellis & Porter Elliott, Van Bael & Bellis

There was a time not so long ago when very few countries in the world had merger control laws. In most jurisdictions, there was no need to notify a merger for prior approval before closing. How different the situation is today. It is estimated that upwards of 100 countries now have merger control laws, and in most of these countries, qualifying mergers, acquisitions and – in some cases – joint ventures must be notified and cleared by the local regulators before they can be implemented. Today, the need to obtain merger control approvals is often the number one factor delaying the closing of deals around the world.

Unfortunately, while more countries have merger control than ever before, there remains relatively little harmonisation, with each jurisdiction having its own rules on what types of transactions must be notified, what thresholds apply, what the procedure is and how long it takes. Even the substantive test for determining whether a notified transaction will be approved is not the same in every jurisdiction. With merger control authorities becoming tougher in their enforcement practices, the challenges facing merging companies have never been more daunting. This book aims to help.

With contributions from leading law firms covering 49 of the most important jurisdictions worldwide, this second edition of *Merger Control* endeavours to address the most common and critical questions of merging companies and their lawyers, including some which are less often addressed in other books of its kind, such as whether pre-notification consultations are customary in a given jurisdiction, whether ‘carve-out’ arrangements may be implemented to allow for closing to take place in jurisdictions where approval is still pending, whether the jurisdiction at issue has a track record of fining foreign companies for failure to file and whether it has ever issued penalties for ‘gun-jumping’ offences.

Adopting the reader-friendly Q&A format that has been used successfully in other volumes of *The European Lawyer Reference Series*, including the first edition of *Merger Control* (2011), this book sets out to answer for each jurisdiction the key questions those on the front line are most likely to have, including:

- Whether notification is mandatory (as in most jurisdictions where the thresholds are met) or voluntary (as, for example, in Australia, New Zealand, Singapore and the UK). If mandatory, is the requirement to file based purely on the parties’ turnover (as in the EU and many other jurisdictions worldwide), or are there other factors that need to be considered, such as market share (eg, in Portugal, Spain and the UK), asset value (eg, in Russia and Ukraine) or the size of the transaction (eg, in the US)?
- Is there a filing deadline and/or a requirement to suspend implementation pending receipt of an approval decision? In most jurisdictions, there is no filing deadline so long as the deal is not closed until it has been approved, but there are exceptions.

- How onerous is the filing? Most jurisdictions have detailed notification forms that must be completed (Germany being a notable exception), although some forms take far more time to complete than others. For example, although certainly not always the case, it is not unusual for notifications to the European Commission to exceed 100 pages (not counting annexes) and to include very detailed legal and economic analysis. By comparison, the US Hart-Scott-Rodino form is short and straightforward, and it can usually be completed in a matter of days (although a second request in the US can be extremely burdensome).
- What factors are likely to be considered by the relevant authorities in assessing the legality of the transaction? While it must be assumed that every authority will focus first and foremost on whether the transaction would raise competition concerns in its territory, some authorities are more likely than others to consider theories of competitive harm that go beyond traditional concerns related to high combined market shares, such as the risks of vertical foreclosure. Similarly, non-competition issues, such as industrial policy or labour policy, may be more likely to be considered in some jurisdictions than others.

Although by no means a substitute to seeking the advice of local counsel, this book aims to address these and other critical questions in a concise and practical way, and therefore to serve as a valuable resource to companies and counsel navigating their way through the twists and turns of obtaining the required merger control approvals worldwide.

Compiling the second edition of *Merger Control* has truly been a group effort. With this in mind, we would like to thank all the authors for their contributions, as well as the team of *The European Lawyer* for their diligence in bringing this book to fruition. We also wish to express our gratitude to our colleagues at Van Bael & Bellis who assisted us on this project, in particular Reign Lee for her editorial support, and Els Lagasse and Veerle Roelens for their secretarial assistance.

Brussels, March 2014

Foreword

**Bernd Langeheine, Deputy Director-General,
DG Competition, European Commission**

Nowadays, an ever larger number of mergers need to obtain regulatory approval in several jurisdictions. The popularity of merger control is due to a general recognition that it is desirable to maintain a market structure which is conducive to effective competition and, therefore, crucial for a robust, innovative economic landscape. This is in the interest of consumers and market players at different levels alike.

As a consequence of globalisation, free trade and open markets merger control has become a key element of almost all competition law regimes around the world. Apart from problems related to costs and delays for closing the deal, multiple filings create a risk of inconsistent or even contradictory decisions. This is why all major competition authorities should cooperate closely on cases which require notification in several countries.

During 2011 and 2012, the European Commission, for example, worked together with other antitrust enforcers in about half of all cases for which an in-depth investigation was opened. The most notable example was the wide-ranging cooperation (ie with the US, Chinese, Japanese, Korean and Australian competition authorities) in the 'Hard-disk-drive cases' in 2011. Parties to a merger and their counsel generally have a keen interest in facilitating such cooperation in order to avoid conflicting decisions. This, in turn, requires knowledge about jurisdictional thresholds and other filing requirements as well as about the timelines of proceedings. This book provides a wealth of information on these and other relevant points for all important merger control systems around the world.

Competition rules and their enforcement will continue to be fragmented for lack of an international authority that would have jurisdiction over mergers and could take decisions for more than one country. There are, however, tendencies to avoid multiple filings at least at the regional level. In Europe, the situation is alleviated by the fact that, since 1990, there has been a merger control regime at the EU level under which mergers of a certain size that concern the competitive situation in several Member States are normally vetted by the European Commission. This is complemented by national rules on merger control which apply to all other relevant transactions, ie mainly those which are of a lesser size and which only concern one Member State.

In the EU, there are clear and explicit rules that lay down which (EU or national) authority has original jurisdiction over a merger. But there is also a mature system of referral mechanisms which mitigates the rigidity of the rules for case allocations and ensures that the best-placed authority deals with a particular merger. These referral provisions apply, in particular, where an operation needs to be notified in several Member States or where markets are wider than the national level and trade between Member States is affected.

The transfer of such cases from national authorities to the Commission will reduce the administrative burden for companies to the largest possible extent and avoid multiple filings. But the rules on referrals also foresee the transfer of merger cases from the EU level to a national authority in certain justified cases. A referral can take place upon the request of the parties, before an operation is notified or after notification at the request of a national competition authority. The application of these mechanisms has produced encouraging results over recent years. Between 2004 and the end of 2013, there were almost 280 referrals from national competition authorities to the EU Commission and approximately 130 in the other direction, ie to the national authority of a Member State. Nevertheless, one-stop shopping does not always work and there are still a large number of cases every year which are scrutinised by competition authorities in two or more EU countries (eg, 240 cases in 2007).

At the international level, the picture remains diverse. Intensive merger scrutiny in traditionally strong antitrust jurisdictions has been matched by new merger control regimes springing up in all parts of the world, most notably Asia and Latin America. Today, there are more than 100 merger control systems in force around the world which vary greatly not only with regard to notification requirements, but also with regard to other key elements such as timelines and filing fees.

Notifying parties and their lawyers continue to struggle with the proliferation of merger regimes and the ensuing divergences regarding procedures and substantive criteria or benchmarks. This situation is time-consuming and costly, in particular in cases where the actual impact of an operation in a given country is rather unimportant, but where low national jurisdiction thresholds nevertheless require a notification.

There are various discussion and coordination fora at the international level, such as the International Competition Network (ICN) or the Competition Committee of the Organisation for Economic Cooperation and Development which endeavour to produce more convergence of national merger control systems. Some progress has been achieved in the context of the ICN with the adoption of recommended practices on matters such as jurisdiction, procedure and even substantive assessment. Given the wide variety of underlying national circumstances (nature of the authority, administrative culture, enforcement powers) and the sensitivities often connected to issues of merger control, this remains, however, an undertaking which requires a lot of patience and which will only be crowned by success in the long term. In the meantime, the coexistence and parallel application of a large number of national merger control systems will continue.

Managing multiple filings with a variety of national competition authorities requires important skills in terms of legal knowledge, organisation and coordination. This book provides valuable insights and guidance with regard to these complicated processes and it will be of great assistance to corporations and their counsel.

Brussels, March 2014

Switzerland

Meyerlustenberger Lachenal

Christophe Rapin, Dr Martin Ammann & Dr Pranvera Këllezi

LEGISLATION AND JURISDICTION

1. What is the relevant merger control legislation? Is there any pending legislation that would affect or amend the current merger control rules described below?

Merger control is regulated by the Federal Act on Cartels and other Restraints of Competition (the Cartel Act; RS 251) and the Ordinance on the Control of Concentrations of Undertakings (the MCO; RS 251.4). In addition, whenever necessary, the Swiss Competition Commission (the COMCO) sets out its practices in communications.

The federal government has recently presented a bill before the Swiss Parliament aiming to amend the substantive test for merger control and coordinating the Swiss notification of mergers falling under EU jurisdiction. First, the bill will modify the substantive test by adopting the Significant Impediment to Effective Competition (SIEC) test, abandoning the predominance of the dominance test. The bill expressly provides for taking into account of efficiencies (consumer welfare standard). Second, the bill aims at waiving the duty to notify in Switzerland cross-border mergers having impact on European or international geographical markets; notifying parties would have to send a copy of the notification filed with the EU Commission to the COMCO. The COMCO may open an investigation *ex post* if the merger impacts relevant national geographic markets. Third, upon request and submission of commitments by the parties, the COMCO may extend the deadlines of merger control to align its procedure with that carried out by the EU Commission. Fourth, to safeguard the effectiveness of the appeal, the Federal Administrative Tribunal should rule within three months from the appeal. If adopted, the amendment will align Swiss merger control rules with those applicable in the EU.

2. What are the relevant enforcement authorities, and what are their contact details?

Concentrations are reviewed by the Competition Commission (COMCO), and the investigations are carried out by its Secretariat.

Commission de la Concurrence (COMCO)/Wettbewerbskommission (WEKO)
Secrétariat de la Commission de la concurrence
Monbijoustrasse 43, CH-3003 Berne
T: +41 (0)31 322 20 40
F: +41 (0)31 322 20 53

In the banking sector, the Swiss Financial Market Supervisory Authority (FINMA) has competence to intervene in the review process in the event the concentration risks impairing creditors' interests (Article 10 III of the Cartel Act). The concentration has to be notified to the COMCO, but FINMA may intervene at any moment. In the event that the FINMA decides to intervene, FINMA's competence supersedes COMCO's competence: the COMCO's role becomes advisory, and the FINMA takes the final decision.

Swiss Financial Market Supervisory Authority (FINMA)
Einsteinstrasse 2
CH-3003 Berne
T: +41 (0)31 327 91 00
F: +41 (0)31 327 91 01

3. What types of transactions are potentially caught by the relevant legislation?

Pre-merger control under the Cartel Act concerns all transactions merging at least two independent companies or acquiring control over an independent company, otherwise called 'concentrations' (Article 4 III of the Cartel Act). All type of mergers are caught by pre-merger control, that is mergers through absorption or combination, and all type of share or asset deals. The acquisition of control over an independent company may be direct or indirect.

4. Are joint ventures caught, and if so, in what circumstances?

Only concentrative joint ventures that perform all the functions of an autonomous economic entity on a lasting basis are caught by merger control. Cooperative joint ventures are covered by provisions on agreement that restrict competition (Article 4 I and 5 of the Cartel Act).

Merger control provisions apply to acquisition of joint control of an existing company or over a newly created company. In this latter case, at least one of the parent companies should transfer business activities in relation with the subject matter of the cooperation to the joint venture (Article 2 II MCO). Transfer of shareholdings among parent companies, or change of shareholders, are also covered by prior notification and pre-merger control rules.

Joint ventures are subject to prior notification and control if at least two of parent companies exceed the thresholds of Article 9 I of the Cartel Act (see question 5 onwards). In 2009, the COMCO announced that joint ventures which do not have activities or any turnover in Switzerland, nor which are expected to have any activity or turnover in Switzerland, are exempted from notification in Switzerland (COMCO Communication of 25 March 2009 on a new practice regarding control of concentrations).

5. What are the jurisdictional thresholds?

Concentrations are subject to prior notification to the COMCO before their implementation if the turnovers of companies concerned in the financial year preceding the concentration fulfil the following criteria:

- (1) the companies concerned reported together a worldwide turnover of at least 2 billion Swiss francs, or a turnover in Switzerland of at least 500 million Swiss francs; and
- (2) at least two of the companies concerned reported each a turnover in Switzerland of at least 100 million Swiss francs.

For insurance, bank and financial institutions, specific calculation applies to define the 'turnover' (Article 9 III of the Cartel Act).

The turnover covers all markets in Switzerland, not only the markets concerned by the merger. Turnover allocation in Switzerland is carried out irrespective of the presence of the companies in Switzerland through seats or branches. An exception applies to foreign joint ventures created by Swiss companies that do not have any activity or turnover in Switzerland and are not expected to have any in the future (COMCO Communication of 25 March 2009 on a new practice regarding control of concentrations). By contrast, if the joint company had previously some sales in Switzerland, the joint venture transaction must be notified in Switzerland.

In addition, if one of the companies concerned has been held to be dominant in a market in Switzerland, the concentration shall be notified irrespective of turnover thresholds. Dominance should have been previously established by a decision of the COMCO.

6. Are these thresholds subject to regular adjustment?

No. The Federal Assembly has not used the possibility to adjust the level of thresholds, nor has it established special criteria in certain sectors of economy (Article 9 III of the Cartel Act).

7. Are there any sector-specific thresholds?

No. Specific thresholds in the media sector were abolished in 2004.

8. In the event the relevant thresholds are met, is a filing mandatory or voluntary?

Filing to the COMCO is mandatory should the concerned companies meet the notification thresholds. It is to be noted that companies held to be dominant in a relevant market in a previous COMCO decision are subject to notification irrespective of the level of turnovers (Article 9 IV of the Cartel Act).

9. Can a notification be avoided even where the thresholds are met, based on a 'lack of effects' argument?

The 'lack of effect' argument has been rejected by the Federal Court (ATF 127 III 219, pt 4.b), considering that thresholds materialise the 'effect principle', and that once a concentration has met such thresholds it is deemed to have effects in Switzerland and a prior notification is required.

The exception to that principle applies only to joint ventures created outside Switzerland having no activity or turnover in Switzerland (see questions 4 and 5). In other cases, the notification cannot be avoided if companies meet the notification thresholds.

10. Are there special rules by which a notification of a ‘foreign-to-foreign’ transaction can be avoided even where the thresholds are met?

As explained in questions 5 and 9, transactions entered into by foreign companies have to be notified in Switzerland if the participating companies meet the thresholds of Article 9 Cartel Act. It is to be noted that notification thresholds are relatively high and, therefore, there are no additional exemptions to the duty to file a prior notification.

11. Does the relevant authority have jurisdiction to initiate a review of transactions which do not meet the thresholds for a notification?

No. As explained in the response to question 5, the COMCO has jurisdiction only to review transactions that qualify as concentrations and meet the notification thresholds set out by the Cartel Act or one of the parties has been held to be dominant in a market in Switzerland.

NOTIFICATION REQUIREMENTS, TIMING AND POTENTIAL PENALTIES

12. Is there a specified deadline by which a notification must be made?

There is no notification deadline. The concerned companies have an interest to notify very quickly in order to be able to consummate the contemplated transactions. As explained in question 17, concentrations meeting the notification criteria must not be consummated prior to obtaining the COMCO’s approval or, in absence of COMCO reaction, prior to statutory deadlines (see question 22).

13. Can a notification be made prior to signing a definitive agreement?

Parties may notify from the moment they are determined to consummate the contemplated concentration. It is up to the parties to submit sufficient evidence to prove that closing of a contemplated transaction is plausible. The notification can be filed as soon as the parties have entered into a binding agreement of whatever form (eg, letter of intent, share purchase agreement), in general closing being subject to condition precedents. Takeover bids may be notified as from their publication. Companies may contact the COMCO’s Secretariat to discuss the admissible legal documents that are sufficient to constitute a notification.

14. Who is responsible for notifying?

In case of merger, all companies concerned by the merger have a duty to notify. Such parties incur a joint and severable liability in case of failure to notify. By contrast, only the company acquiring control has a duty to notify the contemplated transaction; the seller and target company has no duty to file.

If two or more companies notify jointly, they shall designate at least one joint representative. Companies having a duty to notify or their representatives shall designate an address for services in Switzerland if they are domiciled abroad.

15. What are the filing fees, if any?

The preliminary examination (Article 32 of the Cartel Act) is subject to a fixed fee of CHF 5,000, including any copying or postal charges. If the preliminary investigation results in an authorisation subject to obligations or conditions, the fee is calculated on a time-spent basis, while the per hour fee amounts from CHF 100 to 400, according to the staff experience and urgency. Similarly, the fees for the in-depth investigation (Article 33 of the Cartel Act) are calculated on a time-spent basis.

16. Where a notification is necessary, is approval needed before the transaction is closed/implemented (is there a waiting period or a suspension requirement)?

In the event the notification thresholds are met or one of the concerned companies was held dominant in the past, the parties cannot consummate the contemplated transactions before obtaining the COMCO's approval or before the suspension period has lapsed. The consummation of the transaction in principle is suspended during an initial period of one month from receipt of the complete notification (Article 32 II of the Cartel Act). If the contemplated concentration raises doubts about its effects on competition and companies are not able to resolve such doubts by submitting commitments, the COMCO must notify the parties of the opening of an investigation (in-depth review). In absence of the COMCO's notice within the initial period of one month, the parties may implement the transactions as planned (Article 32 I of the Cartel Act). The opening of an investigation suspends the concentration during an additional period of four months (Article 33 II of the Cartel Act).

17. If there is a suspension requirement, is it possible to apply for a derogation in order to close before approval is granted? If so, under what circumstances?

Closing before final approval is possible if the COMCO grants a provisional approval (Article 32 II of the Cartel Act). Parties willing to close during the first phase investigation shall submit a reasoned request. Such request can be filed before notification. However, the COMCO must possess sufficient information about the concentration. For instance, companies may provide to the COMCO a filing made to the EU Commission or may sign a waiver allowing the COMCO to obtain information directly from the EU Commission or another competition authority (see case *Schaeffler/Continental*, 2009).

If COMCO starts an in-depth investigation, the COMCO should investigate the opportunity of such provisional approval *ex officio*. The law requires such provisional approval to remain exceptional to avoid the creation of a non-reversible situation in the market. In practice, provisional approvals remain exceptional, the COMCO preferring to keep the suspension obligation. Therefore, parties usually submit a reasoned request if they wish to benefit from a provisional approval during the investigation. There are no formal conditions for the provisional approval. The main

criterion remains the degree of reversibility: the COMCO should ensure that it can effectively prohibit or approve under conditions and obligations the contemplated transaction without impairing market conditions.

The provisional approval may cover the whole transaction or only parts of the markets concerned, and may be granted subject to conditions and obligations.

In the banking sector, the Swiss Financial Market Supervisory Authority has competence to grant a provisional approval if it considers that the merger is necessary for the protection of creditors. Such provisional approval can be granted prior to the receipt of the notification of the planned concentration by the COMCO. The Swiss Financial Market Supervisory Authority invites the Competition Commission to comment before granting such provisional approval.

18. Are any other exceptions (carve-outs etc) available to allow parties to close/implement prior to approval?

The law does not provide for other exceptions to the prohibition to close the transaction prior to the COMCO's approval. The obligation not to implement the transaction aims at preventing negative effects in Switzerland; carve-outs may, therefore, be discussed with the Secretariat of the COMCO in order to suspend the implementation in Switzerland while allowing it in other territories.

19. What are the possible sanctions for failing to notify a transaction?

Under Swiss law, companies must file a merger prior to its implementation (closing); however, there is no duty to notify within a deadline from the signing of a merger contract or a share purchase agreement and, therefore, no sanction for failing to notify the execution of such contractual agreements.

Companies risk fines up to one million Swiss francs if they implement a concentration without filing a notification or after filing if companies do not observe the suspension obligation and close the transaction before receiving clearance from the COMCO, or before the expiration of statutory suspension periods (Article 51 I of the Cartel Act).

20. What are the possible sanctions for implementing a transaction prior to receiving approval (so-called 'gun-jumping')?

As explained above in question 19, gun-jumping may be sanctioned with a fine of up to one million Swiss francs.

21. What are the possible sanctions for implementing a transaction despite a prohibition decision or in breach of a condition/obligation imposed by a conditional clearance decision?

Companies that implement a transaction in breach of a prohibition decision or do not comply with a condition or an obligation attached to the authorisation risk fines up to one million Swiss francs (see also question 40).

In case of repeated failure to comply with an obligation attached to the

authorisation, companies may be sanctioned with a fine up to 10 per cent of total turnover in Switzerland achieved by all the undertakings concerned (Article 51 II of the Cartel Act).

22. What are the different phases of a review? Is there any way to speed up the review process?

The review is carried out in two phases. The first phase lasts one month from the day of the complete notification (see question 16). To speed up the process, companies may contact the Secretariat of the COMCO well in advance of a filing in order to define the scope of the information to be provided and avoid further requests for information to complete the initial notification. If companies foresee a strengthening of a dominant position in one of the markets concerned and consider that these concerns may be resolved with straightforward remedies, they may also discuss possible remedies and their scope with the Secretariat of the COMCO before notification. If remedies offered by parties are clear-cut and easy to implement, the COMCO may grant approval before the period of one month.

The second phase is opened in case of in-depth review and lasts for another period of four months (see question 16). In this case, the length of the procedure depends on the complexity of the issues raised by the concentration. In the event parties are capable to design and offer remedies able to eliminate the concerns raised by the concentration in the initial phase of the in-depth investigation and able to ensure their effective implementation, the Secretariat of the COMCO would carry out a market test rapidly, which in turn speeds up the review and approval process.

23. Is there a possibility for a 'simplified' procedure or shorter notification form and, if so, under what conditions would this apply?

Simplified notifications are possible. Companies are invited to contact the COMCO's Secretariat prior to the notification of a concentration to agree on the details of the content of the notification. Such possibility is open, in particular when the Secretariat has already inquired the relevant markets concerned by the concentration or when the concentration creates a joint venture aiming at entering new markets or markets in the early stage of development.

The COMCO's Secretariat reserves the right to require additional information after notification if necessary.

24. What types of data and what level of detail is required for a notification?

The notification shall include information on notifying companies, including their contact details in Switzerland or of their representative, a description of the concentration, turnovers, a proposed definition of the relevant markets affected by the concentration (that is markets where one of the companies participating in the concentration has a market share of more than 30 per cent, or markets where two or more participating companies have an aggregate market share exceeding 20 per cent), the market shares of

each participating company and evidence of entries in the market during the last five years.

25. In which language(s) may notifications be submitted?

The notification shall be submitted in French, German or Italian. Documents evidencing the turnover and the transaction, and any other documents, may be filed in English.

26. Which documents must be submitted along with a notification?

Companies shall send a copy of the financial statements of all participating companies, a copy of the agreements regarding the concentration or a copy of the public offer.

27. What are the possible sanctions for providing incorrect, misleading or incomplete information in a notification?

Incomplete or incorrect information can be sanctioned with fines up to CHF 100,000 (Article 52 of the Cartel Act). In case of misleading information, such as forgery of documents, fraud or wilful harm to the interests of another party, particular criminal provisions may apply to individuals and subsidiarily to notifying companies.

28. To what extent is the relevant authority available for pre-notification discussions? Are pre-notification consultations customary?

Companies may contact the Secretariat of the COMCO before notification to discuss the notification and possible effects of the concentration. If companies have already filed notifications in other European countries they can provide a copy to the Secretariat of the COMCO in order to facilitate the filing process and the understanding of the concentration. It is highly recommended to conduct pre-notification consultations.

29. Where pre-notification consultations are possible, what measures does the relevant authority take to ensure that such discussions are treated confidentially?

The Secretariat and the COMCO are bound by official secrecy rules. The discussions with the Secretariat of the COMCO are conducted on the basis of confidentiality. All information communicated to the Secretariat of the COMCO must be marked as business secrets and communicated on a confidential basis.

30. At what point and in what forum does the relevant authority make public the fact that a notification has been made?

The opening of an in-depth investigation is published in the *Federal Gazette* and in the *Swiss Official Trade Journal*. The notice contains the name, domicile and business activities of the companies concerned and a brief description of the concentration as well as the period during which third parties may comment on the planned concentration.

31. Once the authority has issued its decision, what information about the transaction and the decision is made publicly available?

Usually, approval decisions issued in the framework of the first phase are not subject to press releases. Basic information on these concentrations is included only in annual reports. Decisions following an in-depth investigation are communicated to the public through short press releases. The majority of the decisions issued by the COMCO are published in the official review of the COMCO, the Law and Policy on Competition (LPC) review, without parties' business secrets.

SUBSTANTIVE ASSESSMENT OF THE MERGER, ROLE OF THIRD PARTIES AND REMEDIES**32. What is the substantive test for assessing the legality of a notified transaction?**

The COMCO assesses the notified concentration on the basis of the dominance test. The investigation will be focused on whether the concentration creates or strengthens a dominant position liable to eliminate effective competition on the one hand and whether it does not, on the other hand, improve the conditions of competition in another market in a way that the harmful effects of the dominant position can be outweighed. In assessing the effects of a concentration on the effectiveness of competition, the COMCO also takes account of any market developments and the position of the undertakings in relation to international competition.

The COMCO may prohibit a concentration or authorise it subject to conditions and obligations.

33. What theories of harm are considered by the authority in assessing the transaction? How concerned are the authorities with non-horizontal (eg, vertical or conglomerate) effects, and are any other theories of harm analysed (eg, coordination in the case of joint ventures)?

Currently, the assessment of the COMCO is focused on horizontal effects, in particular on the creation or strengthening of a dominant position. The COMCO has considered several times coordinated effects, covered by the concept of collective dominance in Swiss law. The prohibition of the planned merger between Orange and Sunrise showed that the COMCO is ready to apply other theories of harm that go beyond the statutory substantive test on creation or strengthening of a paramount dominant position. In the planned merger between Orange and Sunrise, the new entity would have had a market share of about 40 per cent, well behind the position of the other competitor Swisscom.

Coordination effects in case of joint ventures, vertical or conglomerate effects are also taken into account while assessing planned concentrations. To date, the COMCO has not prohibited or imposed remedies in purely vertical or conglomerate mergers. The COMCO's intervention presupposes the creation or strengthening of a dominant position at least in one market level.

34. Are non-competition issues, such as industrial policy or labour policy, commonly taken into account in the assessment of the transaction?

The substantial merger test focuses on the competitive assessment. The Cartel Act explicitly requires that the COMCO also takes account of market developments and the position of the undertakings in relation to international competition. Such considerations were, for instance, important when the COMCO cleared the merger between UBS and SBV in 1998 subject to marginal remedies. Arguments related to industrial policy are indirectly taken into account in the assessment while investigating the trends and constraints in the relevant markets, although they do not constitute preponderant elements of the analysis. Competitive assessment will prevail over any other policies.

The Cartel Act provides for a specific procedure before the Federal Council (Swiss government) for concentrations that have been prohibited: they may be authorised if, in exceptional cases, it is necessary for compelling public interest reasons (Article 11 of the Cartel Act). This separate procedure was set precisely to separate competitive assessment and other policy issues. Public interest encompasses, among others, labour policy, environmental policy, health and consumer protection, protection of the cultural identity etc. To date, this procedure has never been used by companies.

35. Are economic efficiencies considered as a mitigating factor in the substantive assessment?

Economic efficiencies are taken into account and, if substantiated, can serve as a mitigating factor in the competitive assessment. The COMCO has integrated in its analysis efficiency gains very early; the concentration of Recimet and Batrec in 1999 was cleared acknowledging the importance of economies of scale in the recycling of batteries, although the merger created a monopoly in Switzerland.

36. Does the relevant authority typically cooperate/share information with authorities in other jurisdictions?

Currently, there are no bilateral agreements in place between the COMCO and foreign competition authorities and, therefore, the COMCO does not share confidential information with other competition authorities. Companies may, however, sign a waiver to confidentiality and allow the COMCO to liaise with other authorities, in particular the EU Commission (DG Competition).

Switzerland has concluded a bilateral agreement with the EU in the Air Transport Sector (OJ 2002 L 114, p. 73); a general Free Trade Agreement was concluded in 1972 (OJ 1972 L 300). These cooperation agreements do not go beyond the exchange of non-confidential information unless the parties to the proceeding have explicitly consented to such exchange.

The EU and Switzerland have signed an agreement concerning the cooperation on the application of their competition laws (COM(2012) 245 final of 1 June 2012). According to this agreement, the EU Commission and

the COMCO may exchange confidential information even if the parties object to such exchange, subject to specific conditions. Before entering into force, the cooperation agreement needs to be adopted by the EU Council and the EU Parliament and approved by the Federal Parliament.

37. To what extent are third parties involved in the review process?

Third parties are informed of the opening of an in-depth review through a publication in the *Federal Gazette* and the *Swiss Official Trade Journal*. They can communicate their comments to the COMCO in writing, within the deadline set forth in the notice. Third parties are participants to the procedures, but do not have specific rights. In particular, they do not have a right to be heard or access to file. In individual cases, the Secretariat may, however, order a hearing.

38. Is it possible for the parties to propose remedies for potential competition issues?

Parties may propose remedies at any stage of the procedure. The content of measures to be taken will be defined in an agreement with the Secretariat of the COMCO. The COMCO will make binding the remedies in the form of conditions or obligations in its final decision. In the case of conditions, the parties are not allowed to implement the concentration before the execution of remedies; if remedies are enforced in the form of obligations, the parties may consummate the merger but are bound to comply with particular measures included in the clearance decision.

39. What types of remedies are likely to be accepted by the authority (eg, divestment remedies, other structural remedies, behavioural remedies etc)?

The COMCO has accepted structural and behavioural remedies in the past. Divestments remain, however, the preferred remedy. Divestment of an ongoing business has been ordered, for instance, in the case Bell AG/SEG-Poulet AG (1999); in the case UBS/SBV (1999) divestment of branches have been ordered. In Migros/Denner (2007), COMCO imposed several behavioural obligations to Migros aiming at preserving Denner's independence. For instance, Migros was prohibited to change the denomination of Denner sale points, to terminate existing Denner's agreements with small suppliers and to substantially alter Denner's product range. In Orange/Sunrise (2010), the parties offered a package of complex quasi-structural and behavioural measures which were considered as insufficient by the COMCO to eliminate negative effects on the market.

40. What power does the relevant authority have to enforce a prohibition decision?

The COMCO is empowered to sanction companies that do not comply with the prohibition decision with a fine of up to CHF 1,000,000 (Article 51 I of the Cartel Act). In addition, the COMCO will take all measures ensuring the restoration of effective competition. The COMCO will ask first to companies

to take the necessary steps to restore effective competition within a deadline. If the COMCO accepts the proposed measures, it may decide how and by when the undertakings concerned must implement them.

If parties do not make any proposals despite being required to do so by the COMCO, or if the proposals are not accepted, the COMCO may order divestment of any combined undertakings or assets or divestment of any controlling influence, or any other measures to restore effective competition.

JUDICIAL REVIEW

41. Is it possible to challenge decisions approving or prohibiting transactions? If so, before which court or tribunal?

The notifying parties may challenge a prohibition decision or a decision accompanied with conditions or obligations before the Federal Administrative Tribunal. The appeal involves the review of facts and of any point of law by the Federal Administrative Tribunal. Third parties do not have standing to challenge decisions approving a transaction.

42. What is the typical duration of a review on appeal?

The appeal procedure may last between one to two years.

43. Have there been any successful appeals?

In recent years, there have been no appeals against decisions of the COMCO. This is partly due to the fact that third parties have no right to appeal, and that in one occasion where a merger was prohibited (Orange/Sunrise in 2010), the parties decided not to appeal.

STATISTICS

44. Approximately how many notifications does the authority receive per year?

The Secretariat of the COMCO receives between 25 and 40 notifications per year. The rather low number of notifications is due to high thresholds in Switzerland.

45. Has the authority ever prohibited a transaction? How many prohibition decisions has the authority issued in the past five years?

The COMCO has formally opposed to only one transaction: the aborted merger between Orange and Sunrise in the mobile telecommunication market (prohibition decision of 22 April 2010). In a pre-merger situation, Sunrise and Orange had been the second and third mobile operator on the market. Thus, the merger would have created the second-largest mobile telecommunication provider after Swisscom. In a concentrated market with only three players, the concentration would have created a duopoly which negative effects could not offset efficiencies alleged by the parties. Remedies offered by the parties, but which remained confidential, were not considered as sufficient by the COMCO.

46. Over the past five years, in what percentage of cases have binding commitments been required in order to obtain clearance for a transaction?

The vast majority of mergers are cleared within the deadline of one month of the first phase of investigation. Remedies in the first phase of investigation are rare. Relatively few mergers enter into the second/in-depth phase of the merger review. In 2012, the COMCO did not open any in-depth investigation, and in 2011 only one. Therefore, the percentage of cases cleared subject to remedies is high in comparison with mergers subject to an in-depth investigation (from 40 to 70 per cent).

In 2012, the merger between the Swiss Post and the French Post was cleared in the first phase subject to the divestment of the commercial mail business of the Swiss Post to a third party. In 2010, the COMCO imposed obligations to the merger of activities in the newspapers' morning distribution services between Tamedia, the NZZ Group and Swiss Post. The early morning distribution activities could be merged, but NZZ Group and Tamedia were prohibited from holding a stake in the new joint venture and from running it along with Swiss Post.

47. How frequently has the authority imposed fines in the past five years?

Fines in the area of merger control are rare. In September 2013, the COMCO imposed a fine of CHF 35,913 on a company which failed to notify. In 2012, 2011 and 2010 the COMCO did not impose any fines.

Contact details

GENERAL EDITORS

Jean-François Bellis & Porter Elliott
Van Bael & Bellis
Avenue Louise 165
B-1050 Brussels
Belgium
T: +32 (0)2 647 73 50
F: +32 (0)2 640 64 99
E: jfbellis@vbb.com
pellott@vbb.com
W: www.vbb.com

AUSTRALIA

Luke Woodward, Elizabeth Avery &
Morelle Bull
Gilbert + Tobin Lawyers
Level 37
2 Park Street
Sydney 2000
NSW
Australia
T: +61 2 9263 4000
F: +61 2 9263 4111
E: lwoodward@gtlaw.com.au
eavery@gtlaw.com.au
mbull@gtlaw.com.au
W: www.gtlaw.com.au

AUSTRIA

Dr Johannes P. Willheim
Willheim Müller Rechtsanwälte
Rockhgasse 6, A 1010 Wien
Austria
T: +43 (1) 535 8008
F: +43 (1) 535 8008 50
E: j.willheim@wmlaw.at
W: www.wmlaw.at

BELGIUM

Martin Favart
Van Bael & Bellis
Avenue Louise 165
B-1050 Brussels, Belgium

T: +32 (0)2 647 73 50
F: +32 (0)2 640 64 99
E: mfavart@vbb.com
W: www.vbb.com

BRAZIL

Onofre Carlos de Arruda Sampaio &
André Cutait de Arruda Sampaio
O.C. Arruda Sampaio –
Sociedade de Advogados
Al. Ministro Rocha Azevedo,
882 – 8º andar.
01410-002,
São Paulo
Brazil
T: +55 11 3060-4300
F: +55 11 3082-2272
E: onofre@arruda-sampaio.com
andre@arruda-sampaio.com
W: www.arruda-sampaio.com

BULGARIA

Peter Petrov & Meglena Konstantinova
Boyanov & Co
82, Patriarch Evtimii Blvd
Sofia 1463
Bulgaria
T: +359 2 8 055 055
F: +359 2 8 055 000
E: p.petrov@boyanov.com
W: www.boyanov.com

CANADA

Susan M. Hutton & Megan MacDonald
Stikeman Elliott LLP
Suite 1600
50 O'Connor Street
Ottawa, ON
Canada K1P 6L2
T: +1 613 234-4555
E: shutton@stikeman.com
E: mmacdonald@stikeman.com
W: www.stikeman.com

CHINA

Janet Yung Yung Hui &
Stanley Xing Wan
Jun He
20/F, China Resources Building
8 Jianguomenbei Avenue
Beijing 100005, P.R. China
T: +8610 8519 1300
F: +8610 8519 1350
E: xurr@junhe.com
wanxing@junhe.com
W: www.junhe.com

CROATIA

Boris Babić, Boris Andrejaš &
Stanislav Babić
Babić & Partners Law Firm Ltd
Nova cesta 60, 1st floor
10000 Zagreb, Croatia
T: +385 (0) 1 3821 124
F: +385 (0) 1 3820 451
E: boris.babic@babic-partners.hr
boris.andrejas@babic-partners.hr
stanislav.babic@babic-partners.hr
W: www.babic-partners.hr

CYPRUS

Elias Neocleous & Ramona Livera
Andreas Neocleous & Co LLC
Neocleous House
195 Makarios III Avenue
PO Box 50613, CY-3608
Limassol, Cyprus
T: +357 25 110 000
F: +357 25 110 001
E: info@neocleous.com
W: www.neocleous.com

CZECH REPUBLIC

Robert Neruda
Havel, Holásek & Partners s.r.o.
Attorneys at Law
Hilleho 1843/6, 602 00 Brno
T: +420 724 929 134
F: +420 545 423 421
E: robert.neruda@havelholasek.cz
W: www.havelholasek.cz

Roman Barinka
Havel, Holásek & Partners s.r.o.
Attorneys at Law
Na Florenci 2116/15
110 00 Praha 1
T: +420 255 000 883
F: +420 255 000 110
E: roman.barinka@havelholasek.cz
W: www.havelholasek.cz

DENMARK

Gitte Holtsø, Thomas Herping
Nielsen & Daniel Barry
Plesner
Amerika Plads 37
DK-2100 Copenhagen
Denmark
T: +45 33 12 11 33
F: +45 33 12 00 14
E: gho@plesner.com
thn@plesner.com
dba@plesner.com
W: www.plesner.com

ESTONIA

Tanel Kalas & Martin Mäesalu
Raidla Lejins & Norcous
Roosikrantsi 2
Tallinn 10119
Estonia
T: +372 640 7170
F: +372 6407 171
E: rln@rln.ee
W: www.rln.ee

EUROPEAN UNION

Porter Elliott & Johan Van Acker
Van Bael & Bellis
Avenue Louise 165
B-1050 Brussels
Belgium
T: +32 (0)2 647 73 50
F: +32 (0)2 640 64 99
E: pelliott@vbb.com
jvanacker@vbb.com
W: www.vbb.com

FINLAND

Katri Joenpolvi & Leena Lindberg
Krogerus Attorneys Ltd
Unioninkatu 22
FI-00130 Helsinki, Finland
T: +358 (0)29 000 6200
F: +358 (0)29 000 6201
E: katri.joenpolvi@krogerus.com
leena.lindberg@krogerus.com
W: www.krogerus.com

FRANCE

Thomas Picot
Jeantet Associés
87 avenue Kléber
75116 Paris, France
T: +33 01 45 05 80 30
F: +33 01 45 05 81 01
E: tpicot@jeantet.fr
W: www.jeantet.fr

GERMANY

Dr Andreas Rosenfeld, Dr Sebastian
Steinbarth & Caroline Hemler
Redeker Sellner Dahs Rechtsanwälte
Willy-Brandt-Allee 11
53113 Bonn
Germany
T: +49 228 726 25 0
F: +49 228 726 25 99

172, Avenue de Cortenbergh
1000 Brussels
Belgium
T: +32 2 740 03 20
F: +32 2 740 03 29
E: rosenfeld@redeker.de
steinbarth@redeker.de
hemler@redeker.de
W: www.redeker.de

GREECE

Anastasia Dritsa
Kyriakides Georgopoulos Law Firm
28, Dimitriou Soutsou Str
GR 115 21
Athens, Greece

T: +30 210 817 1561
F: +30 210 685 6657, 8
E: a.dritsa@kglawfirm.gr
W: www.kglawfirm.gr

HUNGARY

Dr Chrysta Bán
Bán S. Szabó & Partners
József nádor tér 5-6
1051 Budapest
T: +36 1 266 3522
F: +36 1 266 3523
E: cban@bansszabo.hu
W: www.bansszabo.h

ICELAND

Gunnar Sturluson & Helga Óttarsdóttir
Logos Legal Services
Efstaleiti 5
103 Reykjavík
Iceland
T: +354 5 400 300
F: +354 5 400 301
E: gunnar@logos.is
helga@logos.is
W: www.logos.is

INDIA

Farhad Sorabjee, Amitabh Kumar &
Reeti Choudhary
J. Sagar Associates
Vakils House,
18 Sprott Road,
Ballard Estate
Mumbai 400 001
India
T: +91 22 4341 8600
F: +91 22 4341 8617
E: farhad@jsalaw.com
amitabh.kumar@jsalaw.com
reeti@jsalaw.com
W: www.jsalaw.com

INDONESIA

HMBC Rikrik Rizkiyana, Vovo
Iswanto, Anastasia Pritahayu R.
Daniyati & Ingrid Gratsya Zega

Assegaf Hamzah & Partners
Menara Rajawali 16th Floor
Jalan DR. Ide Anak Agung Gde
Agung Lot # 5.1
Kawasan Mega Kuningan
Jakarta 12950
Indonesia
T: +62 21 2555 7800
F: +62 21 2555 7899
E: rikrik.rizkiyana@ahp.co.id
anastasia.pritahayu@ahp.co.id
ingrid.zega@ahp.co.id
W: www.ahp.co.id

IRELAND

John Meade
Arthur Cox
Earlsfort Centre, Earlsfort Terrace
Dublin 2,
Ireland
T: +35 3 8 72427205
F: +35 3 1 6180618
E: john.meade@arthurcox.com
W: www.arthurcox.com

ISRAEL

Eytan Epstein, Mazor Matzkevich &
Shiran Shabtai
Epstein Knoller Chomsky Osnat
Gilat Tenenboim & Co. Law Offices
Rubinstein House, 9th floor
20 Lincoln St, Tel Aviv
67134 Israel
T: +972 3 5614777
+972 3 5617577
F: +972 3 5614776
+972 3 5617578
E: epstein@ekt-law.com
mazorm@ekt-law.com
shirans@ekt-law.com
W: www.ekt-law.com

ITALY

Enrico Adriano Raffaelli & Elisa Teti
Rucellai & Raffaelli
Via Monte Napoleone 18
20121 Milan,

Italy
T: +39 02 76 45 771
F: +39 02 78 35 24
E: e.a.raffaelli@rucellaieraffaelli.it
e.teti@rucellaieraffaelli.it
W: www.rucellaieraffaelli.it

JAPAN

Setsuko Yufu & Tatsuo Yamashima
Atsumi & Sakai
Fukoku Seimei Building
2-2-2, Uchisaiwaicho, Chiyoda-ku
Tokyo 100-0011
Japan
T: +813 5501 1165 (Yufu)
+813 5501 2297 (Yamashima)
F: +813 5501 2211
E: setsuko.yufu@apl.w.jp
tatsuo.yamashima@apl.w.jp
W: www.apl.w.jp

LATVIA

Dace Silava-Tomsone, Ugis Zeltins
& Sandija Novicka
Raidla Lejins & Norcous
Valdemara 20, LV-1010
Riga, Latvia
T: +371 6724 0689
F: +371 6782 1524
E: dace.silava-tomsone@rln.lv
ugis.zeltins@rln.lv
sandija.novicka@rln.lv
W: www.rln.lv

LITHUANIA

Irmantas Norkus & Jurgita
Misevičiūtė
Raidla Lejins & Norcous
Lvovo 25, LT-09320
Vilnius
Lithuania
T: +370 5 250 0800
F: +370 5 250 0802
E: irmantas.norkus@rln.lt
jurgita.miseviciute@rln.lt
W: www.rln.lt

LUXEMBOURG

Léon Gloden & Céline Marchand
Elvinger Hoss & Prussen
2, Place Winston Churchill
L-1340 Luxembourg
BP 245, L-2014
Luxembourg
T: +352 44 66 44 0
F: +352 44 22 55
E: leongloden@ehp.lu
celinemarchand@ehp.lu
W: www.ehp.lu

MALTA

Simon Pullicino & Ruth Mamo
Mamo TCV Advocates
103, Palazzo Pietro Stiges
Strait Street
Valletta, VLT 1436, Malta
T: +356 21 231345/2124 8377
F: +356 21 231298/2124 4291
E: simon.pullicino@mamotcv.com
ruth.mamo@mamotcv.com
W: www.mamotcv.com

THE NETHERLANDS

Erik Pijnacker Hordijk
De Brauw Blackstone Westbroek
N.V.
Claude Debussylaan 80
1082 MD Amsterdam
The Netherlands
P.O. Box 75084
1070 AB Amsterdam
The Netherlands
T: +31 20 577 1804
F: +31 20 577 1775
E: erik.pijnackerhordijk@debrauw.com
W: www.debrauw.com

NEW ZEALAND

Neil Anderson & Matt Sumpter
Chapman Tripp
23 Albert Street, Auckland
PO Box 2206, Auckland 1140
New Zealand

T: +64 9 357 9000
F: +64 9 357 9099
E: neil.anderson@chapmantripp.com
matt.sumpter@chapmantripp.com
W: www.chapmantripp.com

NORWAY

Thea S. Skaug, Espen I. Bakken &
Stein Ove Solberg
Arntzen de Besche Advokatfirma AS
Bygdøy allé 2,
0257 Oslo
Norway
P.O. Box 2734 Solli
T: +47 23 89 40 00
F: +47 23 89 40 01
E: tss@adeb.no
eib@adeb.no
sos@adeb.no
W: www.adeb.no

POLAND

Jarosław Sroczyński
Markiewicz & Sroczyński GP
ul. Sw. Tomasza 34
Dom Na Czasie
Suite 12, 31-027
Cracow, Poland
T: +48 12 428 55 05
F: +48 12 428 55 09
E: jaroslaw.sroczynski@mslegal.com.pl
W: www.mslegal.com.pl

PORTUGAL

Diogo Coutinho de Gouveia &
Eduardo Morgado Queimado
Gómez-Acebo & Pombo Abogados,
S.L.P.
Avenida da Liberdade n° 131
1250-140 Lisboa
T: +351 213 408 579
F: +351 213 408 609
E: dgouveia@gomezacebo-pombo.com
W: www.gomezacebo-pombo.com

ROMANIA

Gelu Goran & Razvan Bardicea
Biriş Goran SCPA
47 Aviatorilor Boulevard
RO-011853
Bucharest
Romania
T: +40 21 260 0710
F: +40 21 260 0720
E: ggoran@birisgoran.ro
rbardicea@birisgoran.ro
W: www.birisgoran.ro

RUSSIA

Vladislav Zabrodin
Capital Legal Services
Chaplygina House
20/7 Chaplygina Street
Moscow 105062
Russia
Bolloe Center, 4 Grivtsova Lane
St. Petersburg 190000
Russia
T: +7 (495) 970 10 90
F: +7 (495) 970 10 91
E: vzaabrodin@cls.ru
W: www.cls.ru

SINGAPORE

Lim Chong Kin & Ng Ee Kia
Drew & Napier LLC
10 Collyer Quay, #10-00
Ocean Financial Centre
Singapore 049315
T: +65 6531 4110
+65 6531 2274
F: +65 6535 4864
E: chongkin.lin@drewnapier.com
eekia.ng@drewnapier.com
W: www.drewnapier.com

SLOVAKIA

Jitka Linhartová & Claudia Bock
Schoenherr
Nám. 1. mája 18 (Park One)
811 06 Bratislava
Slovakia

T: +421 257 10 07 01
F: +421 257 10 07 02
E: j.linhartova@schoenherr.eu
c.boock@schoenherr.eu
W: www.schoenherr.eu

SLOVENIA

Christoph Haid & Eva Škufca
Schoenherr
Tomšiceva 3
SI-1000 Ljubljana
Slovenia
T: +386 (0)1 200 09 80
F: +386 (0)1 426 07 11
E: c.haid@schoenherr.eu
e.skufca@schoenherr.eu
W: www.schoenherr.eu

SOUTH AFRICA

Desmond Rudman
Webber Wentzel
10 Fricker Road
Illovo Boulevard
Illovo, Johannesburg
2196, South Africa
PO Box 61771
Marshalltown, Johannesburg
2107, South Africa
T: +27 11 530 5272
F: +27 11 530 6272
E: desmond.rudman@
webberwentzel.com
W: www.webberwentzel.com

SOUTH KOREA

Sanghoon Shin & Ryan Il Kang
Bae Kim & Lee, LLC
133 Teheran-ro
Yoksam-dong, Kangnam-gu
Seoul 135-723, South Korea
T: +82 2 3404 0230
F: +82 2 3404 7688
E: shs@bkl.co.kr
sanghoon.shin@bkl.co.kr
ik@bkl.co.kr
il.kang@bkl.co.kr
W: www.bkl.co.kr

SPAIN

Rafael Allendesalazar & Paloma
Martínez-Lage Sobredo
Martínez Lage, Allendesalazar &
Brokelmann Abogados
Claudio Coello, 37
28001 Madrid
Spain
T: +34 91 426 44 70
F: +34 91 577 37 74
E: rallendesalazar@mlab-abogados.
com
pmartinezlage@mlab-abogados.
com
W: www.mlab-abogados.com

SWEDEN

Rolf Larsson & Malin Persson
Gernandt & Danielsson Advokatbyrå
Hamngatan 2, Box 5747
SE-114 87 Stockholm
Sweden
T: +46 8 670 66 00
F: +46 8 662 61 01
E: rolf.larsson@gda.se
malin.persson@gda.se
W: www.gda.se

SWITZERLAND

MEYERLUSTENBERGER LACHENAL
Christophe Rapin & Dr Pranvera
Këllezi
65 Rue Du Rhône
1211 Genève 3
Switzerland
T: +41 22 737 10 00
F: +41 22 737 10 01
E: christophe.rapin@mll-legal.com
pranvera.kellezi@mll-legal.com

Dr Martin Ammann
Forchstrasse 452
8032 Zurich
Switzerland
T: +41 44 396 91 91
F: +41 44 396 91 92
E: martin.ammann@mll-legal.com

Christophe Petermann
222 Av. Louise
1050 Brussels
Belgium
T: +32 2 646 0 222
F: +32 2 646 75 34
E: christophe.rapin@mll-legal.com
christophe.petermann@mll-legal.
com
W: www.mll-legal.com

TAIWAN

Stephen C. Wu, Yvonne Y. Hsieh
& Wei-Han Wu
Lee and Li, Attorneys-at-Law
9F, No. 201
Tun-Hua N. Road
Taipei, Taiwan
Republic of China
T: +886 2 2715-3300
F: +886 2 2713-3966
E: stephenwu@leeandli.com
W: www.leeandli.com

TURKEY

Gönenç Gürkaynak, Esq.,
ELIG Attorneys-at-Law
Çitlenbik Sokak No.12 Yıldız
Mahallesi Besiktas
34349 Istanbul
Turkey
T: +90 212 327 1724
F: +90 212 327 1725
E: gonenc.gurkaynak@elig.com
W: www.elig.com

UKRAINE

Igor Svehkar
Asters Law Firm
Leonardo Business Center
19–21 Bohdana Khmelnytskoho St
Kiev 01030
Ukraine
T: +380 44 230 6000
F: +380 44 230 6001
E: igor.svehkar@asterslaw.com
W: www.asterslaw.com

UNITED KINGDOM

Bernardine Adkins &
Samuel Beighton
Wragge & Co LLP
3 Waterhouse Square
142 Holborn
London EC1N 2SW
UK

T: +44 (0) 870 733 0649

+44 (0) 207 864 9509

F: +44 (0) 870 904 1099

E: bernardine_adkins@wragge.com

samuel_beighton@wragge.com

W: www.wragge.com

**UNITED STATES
OF AMERICA**

Steven L. Holley
& Bradley P. Smith
Sullivan & Cromwell LLP
125 Broad Street
New York,
New York 10004
USA

T: +1 (212) 558-4000

F: +1 (212) 558-3588

E: holleys@sullcrom.com

smithbr@sullcrom.com

W: www.sullcrom.com

Merger Control

Provisions on merger control are a key element of almost all competition laws around the globe, from the United States to the European Union, from China to Brazil.

Today, the need to obtain merger control approvals is often the number one factor delaying the closing of M&A deals worldwide. While more countries have merger control laws than ever before, merger control regimes differ dramatically from one another, not only with regard to notification requirements, but also in other key elements such as timing and costs.

Managing multiple filings with a variety of competition authorities requires important skills in terms of knowledge, organisation and coordination.

This second edition of 'Merger Control' provides valuable insights and guidance to these complicated processes and will be of great assistance to corporations and their counsel.

