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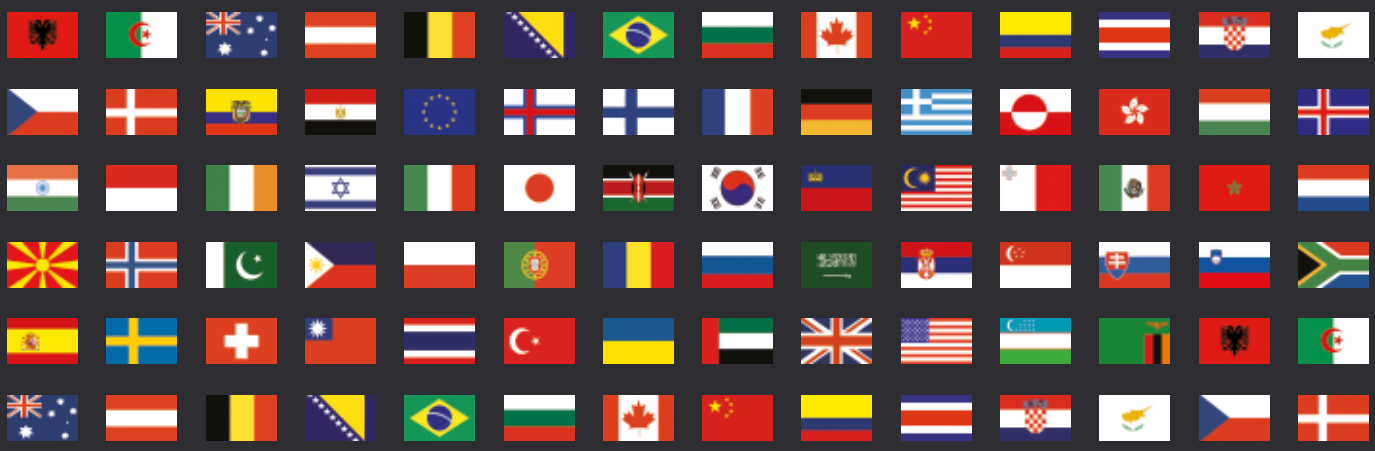
Thomas Janssens



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Getting The Deal Through

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Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured.

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Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the consulting editor, Thomas Janssens of Freshfields Bruckhaus Deringer, for his and the firm's continued assistance with this volume.

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Getting The Deal Through

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LEGISLATION AND JURISDICTION

Relevant legislation and regulators

1 | What is the relevant legislation and who enforces it?

Swedish merger control is governed by the Swedish Competition Act (the Act), which entered into force on 1 November 2008. The changes relating to merger control were on the whole intended to bring the assessment undertaken under the Act even further into line with the EU Merger Regulation.

The Swedish Competition Authority (the Competition Authority) has primary responsibility for the administration of the Act. In January 2018, the Competition Authority gained the power to block a merger, when previously it had been necessary to argue such a case before the Patent and Market Court. Now, a prohibition decision from the Competition Authority can be appealed to the Patent and Market Court, with further appeal to the Patent and Market Court of Appeal. The Patent and Market Court and the Patent and Market Court of Appeal were both established in September 2016. Previously, orders concerning prohibitions and other sanctions were made by the Stockholm District Court and on appeal by the Market Court.

Scope of legislation

2 | What kinds of mergers are caught?

The Act's merger control rules are based on the concept of 'concentration', which is intended to correspond completely to the concept of a concentration under the EU Merger Regulation. This concept is defined in a general way so as to allow a dynamic interpretation in line with EU law, including existing, as well as future, case law of the European Court of Justice. More precisely, the Act prescribes that a concentration within the meaning of the Act arises if there is a change of control on a lasting basis in the following situations:

- two or more previously independent undertakings merge; or
- one or more persons (already controlling at least one undertaking) or one or more undertakings acquire, whether by purchase of securities or assets, by contract or by any other means, direct or indirect (sole or joint) control over the whole or parts of one or more undertakings.

The creation of a joint venture performing, on a lasting basis, all the functions of an autonomous economic entity, namely a full-function joint venture, constitutes a concentration within the meaning of the Act. In addition, if an undertaking having joint control in another undertaking acquires additional parts of that undertaking, giving the former sole control, a change of control occurs and constitutes a concentration within the meaning of the Act.

The Competition Authority refers to the European Commission's Consolidated Jurisdictional Notice and its guidance on the concept of concentration under the EU Merger Regulation.

3 | What types of joint ventures are caught?

The Act is applicable to all full-function joint ventures, that is, all joint ventures constituting a concentration within the meaning of the Act. To the extent the creation of a full-function joint venture has as its object or effect the coordination of the competitive behaviour of undertakings that remain independent, such coordination shall be appraised in accordance with the criteria of the provisions on anticompetitive cooperation between undertakings.

Under the Act, a concentration should be blocked where such coordination cannot be accepted under the rules on anticompetitive cooperation between undertakings.

The Competition Authority refers to the European Commission's Consolidated Jurisdictional Notice and its guidance on the concept of full-function joint ventures.

4 | Is there a definition of 'control' and are minority and other interests less than control caught?

The Act's definition of a concentration follows the relevant rules of the EU Merger Regulation. In short, acquisitions of minority interests are only caught by the merger rules if they involve a de facto acquisition of control.

Thresholds, triggers and approvals

5 | What are the jurisdictional thresholds for notification and are there circumstances in which transactions falling below these thresholds may be investigated?

The Act's merger control rules provide for mandatory notification where:

- the undertakings concerned by the concentration attain a combined turnover in Sweden of more than 1 billion kronor; and
- each of at least two of the undertakings concerned has a turnover in Sweden exceeding 200 million kronor.

When calculating the turnover of the undertakings concerned, two or more transactions that have taken place within a two-year period between the same persons or undertakings are treated as one and the same concentration.

The Competition Authority refers to the European Commission's Consolidated Jurisdictional Notice and its guidance on calculation of turnover and on the concept of undertakings concerned.

Even if the second threshold (ie, at least two of the undertakings concerned have a turnover in Sweden exceeding 200 million kronor) is not met, the Competition Authority has jurisdiction to order that the

concentration be notified if there exist particular reasons to do so (ie, particular substantive competition concerns). Although still relatively infrequent, the Competition Authority has ordered such notifications in a number of cases.

If a concentration has a Community dimension (ie, meets the turnover thresholds in article 1 of the EU Merger Regulation), the concentration should instead be notified to the European Commission.

6 Is the filing mandatory or voluntary? If mandatory, do any exceptions exist?

Provided the merger falls within the scope of the Act and the turnover thresholds are met, filing is mandatory. There are no exceptions to this rule.

The parties may notify a merger voluntarily where the second threshold is not met (see question 5). This may be advisable if the merger leads to high market shares in the Swedish market or a substantial part thereof.

7 Do foreign-to-foreign mergers have to be notified and is there a local effects or nexus test?

Foreign-to-foreign mergers are, in the view of the Competition Authority, caught by the Act and have to be notified when the turnover thresholds are met. In practice this means, for instance, that the creation of a full-function joint venture with no, or limited, foreseen activities in Sweden can still be caught by the Act's merger rules if the parent companies meet the thresholds. As long as the thresholds (see question 5) are met, the merger is presumed to have local effects in Sweden.

8 Are there also rules on foreign investment, special sectors or other relevant approvals?

The Act contains no special merger rules relating to particular areas of the economy. However, such rules are sometimes contained in sector-specific legislation.

NOTIFICATION AND CLEARANCE TIMETABLE

Filing formalities

9 What are the deadlines for filing? Are there sanctions for not filing and are they applied in practice?

A notification of a concentration must be made before it is implemented. There are no pecuniary sanctions for not notifying a merger to the Competition Authority. However, should the Competition Authority become aware of a qualifying but unnotified merger, it may order the parties to notify, subject to a fine.

Should the Competition Authority find that a completed merger was not permitted under the Act, it also retains the right to bring an action before the Patent and Market Court for the divestiture of the acquired entity. Failure to notify brings with it the risk of the merger being annulled ex post facto.

Filing under the Act can be made as soon as the undertakings concerned can demonstrate to the Competition Authority a good faith intention to implement the concentration. This means that an unsigned copy of the agreement or a letter of intent is normally sufficient as a basis for notification. There are practical advantages in pre-notification contact with the Competition Authority, as it may then commence an informal investigation prior to formal notification.

10 Which parties are responsible for filing and are filing fees required?

A merger should be notified by the merging parties together or the party or parties acquiring control. There are no filing fees.

11 What are the waiting periods and does implementation of the transaction have to be suspended prior to clearance?

From the date of receipt of a complete notification, the Competition Authority has a preliminary period of 25 working days (Phase I) in which to take a decision either that there are no grounds for action or that it will initiate a special investigation of the merger (Phase II). However, if an undertaking offers commitments during this period with a view to having the merger cleared by the Competition Authority, the preliminary investigation period is increased to 35 working days. On average, Phase I cases are resolved within 12 working days and Phase II cases within 86 working days.

After a decision to carry out a special investigation (Phase II), the Competition Authority has an additional three months in which to decide whether the merger should be prohibited or cleared. The three-month period may be extended provided the notifying parties agree to it or there are compelling reasons for doing so. The decision of the Competition Authority can be appealed to the Patent and Market Court.

Before clearance, no party to the concentration may take any steps to complete the merger. However, the Competition Authority may decide to waive this standstill requirement. The Competition Authority also has the power to order the parties to respect the standstill requirement, subject to a fine. If the Competition Authority clears the merger before the deadline, the parties to the concentration may complete the merger.

The Competition Authority has the power to suspend the time limit (stop the clock) in a preliminary investigation or a special investigation if, for example, the parties do not provide additionally requested information in due time. During the preliminary investigation period, the parties may also request that the Competition Authority suspends the time limit for as many days as the Competition Authority deems appropriate. This possibility is available if the parties need additional time to address a competition concern.

Pre-clearance closing

12 What are the possible sanctions involved in closing or integrating the activities of the merging businesses before clearance and are they applied in practice?

Before the Competition Authority has taken a decision to clear a transaction, parties are prohibited, in the absence of express permission, from taking measures to implement the concentration fully or partly. Where necessary to uphold this rule, the Competition Authority can order the parties to respect the standstill period subject to a fine. Without this active step by the Competition Authority, there are no pecuniary sanctions but there is nonetheless risk arising from the scope for the Competition Authority subsequently to rule not to clear the merger (or to clear it conditionally). In such cases, divestiture of the company or purchased assets (or similar) will be required. In 2014, the Competition Authority successfully sought to block a completed, voluntarily notified merger (ie, below thresholds, see question 5).

13 Are sanctions applied in cases involving closing before clearance in foreign-to-foreign mergers?

The answer to question 12 applies equally to foreign-to-foreign mergers.

14 What solutions might be acceptable to permit closing before clearance in a foreign-to-foreign merger?

The Act does provide for an exemption from the standstill requirement on a case-by-case basis. However, that is a general provision, not specific to foreign-to-foreign mergers, and there must be specific reasons to justify such a departure from normal procedure.

Public takeovers

15 Are there any special merger control rules applicable to public takeover bids?

The Act does not include any special rules applicable to public takeover bids. However, it provides that a prohibition of a merger will have no effect on the validity of acquisitions made on a Swedish or foreign stock exchange, on another authorised marketplace or at a public auction. In such cases, the buyer may instead be required to divest what has been acquired.

The Act does not contain any explicit rule similar to that found in the EU Merger Regulation to the effect that the standstill rule does not prevent formal implementation of a public bid, in the sense that the acquirer may formally take over the shares as long as he or she does not vote for them. However, the Competition Authority takes the view that the same principle applies under Swedish competition law. In addition, the parties may apply for an exception to the standstill rule so that the acquirer may vote for the shares if it is necessary to maintain the full value of the investment, provided it would not harm competition.

Documentation

16 What is the level of detail required in the preparation of a filing, and are there sanctions for supplying wrong or missing information?

Filing under the Act requires the use of a specific form. The form must be filled out in Swedish. A convenience translation of the form is available on the Competition Authority's website. The form sets out a number of questions on the parties, competitors, market conditions, etc, similar to Form CO requirements for notifications under the EU Merger Regulation.

The information required by the form is relatively extensive. It is, however, sometimes possible to secure, on an informal basis, waivers from the Competition Authority as regards certain information that is confirmed as being unnecessary in a specific case. The time necessary for the preparation of the form varies widely from case to case, as does its size, depending mainly on whether the transaction involves any 'affected markets'.

Discussions on waivers from the Competition Authority as regards the information required may be held during pre-notification meetings. There is no formalised equivalent to the simplified form of notification available at EU level for uncomplicated transactions.

A notifying party must formally declare in the filing that information provided is true, correct and complete. In the event the Competition Authority considers that the information provided is misleading or deficient in some way, the filing will not be considered to be complete and time will not start to run. During the review process itself, and where necessary for the performance of its duties, the Competition Authority can request additional information from the parties under penalty of a fine. If necessary, the Competition Authority can stop the clock until the required information is provided. See also question 32 on judicial review.

Investigation phases and timetable

17 What are the typical steps and different phases of the investigation?

Upon receipt of a complete notification, the Competition Authority has 25 working days in which to conduct a preliminary investigation (Phase I). However, if an undertaking offers commitments during this period with a view to securing clearance from the Competition Authority, the preliminary investigation period is increased to 35 working days. Before the end of the preliminary investigation, the Competition Authority either has to clear the merger or decide to initiate a special (Phase II) investigation. Should such an in-depth investigation be initiated, the Competition Authority shall, within three months, decide whether the merger should be prohibited or cleared. If no action has been brought within that time period, the merger is deemed to have been cleared. The Competition Authority may extend the three-month period by not more than one month at a time with the parties' consent, or if there are other compelling reasons. In addition, the Competition Authority has the power to suspend the time limit in a preliminary investigation or a special investigation if, for example, the parties do not provide additionally requested information in due time (ie, to 'stop the clock'). During the preliminary investigation period, the parties may also request that the Competition Authority suspends the time limit for as many days as the Competition Authority deems appropriate. This possibility is available if the parties need additional time to address a competition concern. Pre-notification contacts are advised and recommended by the Competition Authority, especially for more complex mergers with 'affected markets'. There are practical advantages in pre-notification contact with the Competition Authority, as it may then commence an informal investigation prior to formal notification.

A prohibition decision or conditional clearance from the Competition Authority can be appealed to the Patent and Market Court and must be ruled upon within six months of its receipt (subject to extension). An appeal against the Patent and Market Court decision lies to the Patent and Market Court of Appeal, which must pass final judgment within three months of expiry of the period for appeal.

No measures may be taken in respect of a merger, notified or not, when more than two years have passed since the concentration occurred.

18 What is the statutory timetable for clearance? Can it be speeded up?

The timetables applicable to first stage and in-depth investigations (Phase I and II respectively) are described in question 17. There are no set timetables for hearings, requests for information or other measures during the investigation. The Competition Authority may, from time to time, in the course of the investigation, as it deems appropriate, send questions to the parties and request additional information.

When the notification has been filed, the Competition Authority will normally contact competitors and other third parties listed in the notification and invite comments on the proposed merger. There is no formal distinction between different classes of third parties. No companies other than those concerned in the acquisition are treated as parties to the procedure.

The length of time required to obtain a decision varies considerably from case to case, depending mainly on whether the transaction involves any 'affected markets'. However, the Competition Authority will often seek to clear uncomplicated cases (those clearly involving no affected markets) before the expiry of the 25-working-day period (Phase I). The Competition Authority has published a goal to clear such cases within 15 working days. On average, in 2018, Phase I cases were resolved within 12 working days and Phase II cases within 86 working days.

SUBSTANTIVE ASSESSMENT

Substantive test

19 | What is the substantive test for clearance?

Under the Act, a merger shall be prohibited if it would significantly impede the existence or development of effective competition in Sweden as a whole, or a substantial part thereof, in particular as a result of the creation or strengthening of a dominant position. This is harmonised with the EU Merger Regulation. The Competition Authority's assessment will take account of all relevant factors including, for example, possible counterweighing efficiencies or failing firm argumentation.

However, a merger may be prohibited only if such a prohibition does not involve 'the setting aside of essential national interests of security or resources'. This exclusion is unlikely to apply other than in very special circumstances.

A number of factors will be taken into account in assessing the transaction, such as market shares, barriers to entry and buyer power.

20 | Is there a special substantive test for joint ventures?

In addition to the substantive test described in question 19, the Act provides that, to the extent the creation of a full-function joint venture has as its object or effect the coordination of the competitive behaviour of undertakings that remain independent, such coordination shall be appraised in accordance with the criteria of the provisions on anticompetitive cooperation between undertakings.

Theories of harm

21 | What are the 'theories of harm' that the authorities will investigate?

The Competition Authority will typically consider possible unilateral, coordinated, vertical and conglomerate effects of a concentration when evaluating whether it would significantly impede the existence or development of effective competition in Sweden as a whole, or a substantial part thereof.

Non-competition issues

22 | To what extent are non-competition issues relevant in the review process?

As mentioned above, elements outside the competition law field may be taken into account by reference to the criterion that a merger cannot be prohibited if doing so would jeopardise important national interests of security or resources. The courts have not yet had the opportunity to interpret this criterion. However, the situations in which this exception could be invoked are considered to be rare.

Economic efficiencies

23 | To what extent does the authority take into account economic efficiencies in the review process?

The Act does not explicitly mention economic efficiencies. However, the Competition Authority's 2018 'Guidance from the Swedish Competition Authority for the notification and examination of concentrations between undertakings', specifies that the parties must at an early stage provide the Authority with verifiable information on potential efficiency gains and counterfactuals to enable it to take economic efficiencies into account.

The Competition Authority refers to the European Commission's Guidelines on the assessment of horizontal mergers and its guidance on the assessment of economic efficiencies.

REMEDIES AND ANCILLARY RESTRAINTS

Regulatory powers

24 | What powers do the authorities have to prohibit or otherwise interfere with a transaction?

If the substantive test is met (see question 19), the Competition Authority can either prohibit the transaction or accept and make binding appropriate commitments from the parties to remedy the concerns identified. Remedies could include an order to divest or to take other pro-competitive action. Any such commitments given by the parties may be linked to a fine.

Acquisitions made on a stock exchange or any other recognised market or at an auction may not be prohibited; instead the disposal of the assets acquired may be ordered.

Remedies and conditions

25 | Is it possible to remedy competition issues, for example by giving divestment undertakings or behavioural remedies?

As an alternative to prohibiting a transaction, the Competition Authority can accept commitments for the disposal of an undertaking or a business activity in whole or in part or some other measure to address the competition concern identified.

Such commitments may be proposed at any stage during the procedure. The companies concerned normally present such solutions in the form of an undertaking to the Competition Authority. Structural, as well as behavioural, undertakings are accepted by the Competition Authority. However, the Competition Authority typically favours divestments, as opposed to behavioural undertakings. Compliance with such undertakings may be enforced through a fine to be imposed in the event of a breach of the undertaking.

26 | What are the basic conditions and timing issues applicable to a divestment or other remedy?

Commitments may be proposed by the parties at any stage during the procedure. In Phase I, if commitments are offered, this initial period is extended to 35 days. In Phase II, an application to extend the time limit is required if a remedy is offered later than three weeks before the end of this in-depth period. The basic conditions applicable to a divestment or any other remedy are, in short, that they are sufficient to eliminate the adverse effects of the concentration.

27 | What is the track record of the authority in requiring remedies in foreign-to-foreign mergers?

The Competition Authority has on occasion obliged the parties to a foreign-to-foreign merger to divest assets located outside Sweden to remedy competition issues on the Swedish market.

Ancillary restrictions

28 | In what circumstances will the clearance decision cover related arrangements (ancillary restrictions)?

A decision by the Competition Authority not to take any action with regard to a concentration also covers restrictions directly related and necessary to the implementation of the notified concentration. There are no specific guidelines published by the Competition Authority, but the preparatory works indicate that the European Commission's Notice on ancillary restraints shall give guidance in matters concerning such restraints under the Act.

INVOLVEMENT OF OTHER PARTIES OR AUTHORITIES

Third-party involvement and rights

29 Are customers and competitors involved in the review process and what rights do complainants have?

Customers and competitors will be invited to comment on the proposed merger. No companies other than those concerned in the merger are treated as parties to the procedure.

Publicity and confidentiality

30 What publicity is given to the process and how do you protect commercial information, including business secrets, from disclosure?

All notifications are mentioned together with a brief summary on the Competition Authority's case list, which is publicly available on the Authority's website. The Authority also publishes the final decision in the case.

As for confidentiality, whereas the general rule in Sweden is that all documents held by a public authority are in the public domain, rules on confidentiality and business secrets are contained in the Public Access to Information and Secrecy Act. The Act provides that information shall be secret if it relates to a party's business, innovations or research and development, insofar as disclosure would cause the party to suffer injury. There must, however, be particularly strong reasons for refusing full access to the file to a party to the proceedings.

Information provided by the parties during pre-notification contact is covered by absolute secrecy; that is, without the requirement that disclosure would cause injury.

In situations where the granting of confidentiality has been an issue, the Competition Authority has adopted a generally cooperative attitude in relation to the party requesting confidentiality.

In certain circumstances, the Competition Authority can give a party access to secret information through a 'data room procedure'. During such a process, certain information contained in the Competition Authority's investigation file will be held available at its premises (the data room) to which only a restricted group will have access during a limited period of time. The purpose of this procedure is to protect commercially sensitive information covered by the Public Access to Information and Secrecy Act, and at the same time give a party access to, for example, the Competition Authority's economic analysis in a specific case. This procedure is normally only available once the parties have received the Competition Authority's draft prohibition or conditional clearance decision (similar to the European Commission's statement of objections).

Cross-border regulatory cooperation

31 Do the authorities cooperate with antitrust authorities in other jurisdictions?

The Competition Authority may, where appropriate, contact the European Commission or any national competition authority formally or informally. Since 2004, Sweden has had an agreement with Denmark, Norway and Iceland on cooperation on competition issues. This was revised and extended in September 2017 to include Finland and Greenland. As a result of the agreement, information exchange between the national competition authorities concerned is facilitated, inter alia, in the area of merger control. The national competition authorities hold semi-annual conference calls and yearly meetings within the framework of the agreement to update each other on current trends and ongoing investigations.

The Best Practices on Cooperation between EU National Competition Authorities in Merger Review were adopted in November 2011 by the EU Merger Working Group.

Under EU merger control rules, the Competition Authority cooperates with the European Commission and the other member states' competition authorities concerning referral cases.

JUDICIAL REVIEW

Available avenues

32 What are the opportunities for appeal or judicial review?

The decision of the Competition Authority can be appealed to the Patent and Market Court. The decisions and orders of the Patent and Market Court may be appealed to the Patent and Market Court of Appeal, but leave to appeal is required. There is also a possibility, subsequent to a decision by any of the above courts, of reviewing the decision, on application of the Competition Authority, where the decision has been based on false information provided by a party. This application must occur within one year of the date of the decision.

Time frame

33 What is the usual time frame for appeal or judicial review?

From the date of receipt of a complete notification, the Competition Authority has 25 working days (or 35 working days if commitments have been offered, see question 17) in which to decide either that there are no grounds for action or that it shall initiate a special investigation. After a decision to carry out a special investigation, the Competition Authority has a further three months in which to decide whether to clear or prohibit the merger. The decision can be appealed to the Patent and Market Court, the court then has six months to decide whether the concentration shall remain blocked or not. If an appeal is made against the judgment of the Patent and Market Court, the Patent and Market Court of Appeal shall make a ruling within three months of expiry of the period of appeal.

All the time limits mentioned above, except the 25 or 35-day limit during Phase I, may be extended if the notifying parties agree to it or where there are special reasons for an extension. The Phase I limit can be extended only by the notifying parties offering commitments, thereby extending the investigation period from 25 to 35 days, or by the Competition Authority suspending the time limit due, for example, to the parties not providing additionally requested information in due time.

ENFORCEMENT PRACTICE AND FUTURE DEVELOPMENTS

Enforcement record

34 What is the recent enforcement record and what are the current enforcement concerns of the authorities?

Since 1993, the Competition Authority has taken action to prohibit 13 mergers in total. This somewhat underestimates the degree of regularity with which the Competition Authority may have reached negative conclusions, as other transactions have simply been abandoned on receipt of the draft summons (equivalent to a Statement of Objections, under the pre-2018 system), without the Competition Authority needing to take formal action in court, for example Blocket's acquisition of Hemnet or Visma's acquisition of Fortnox. Of course, there are also cases resolved via commitments, avoiding the need for prohibition altogether.

The only Phase II case that took place in 2018 (see question 36), was unconditionally cleared. Of the three Phase II cases that took place in 2017, all were unconditionally cleared. This suggests that a Phase II investigation in Sweden does not necessarily signify a case very likely to require commitments for clearance. Notwithstanding, the Competition Authority did block a transaction in April 2019.

In addition, although still somewhat infrequent, the Competition Authority has on a number of occasions in the relatively recent past used its power to call in a below-threshold merger when market conditions suggest that it in any event merits scrutiny (eg, in relation to small acquisitions in already concentrated markets). In such cases, a voluntary notification may be advisable.

Reform proposals

35 | Are there current proposals to change the legislation?

The Competition Authority received increased powers in January 2018 and can now prohibit a merger without taking action in court to do so. This power was exercised for the first time in April 2019 (see question 36).

UPDATE AND TRENDS

Key developments of the past year

36 | What were the key cases, decisions, judgments and policy and legislative developments of the past year?

In 2018, the number of mergers notified to the Competition Authority remained stable. There were 80 cases notified in 2018, the same number as in 2017, compared with 74 cases notified in 2016 and 61 cases notified in 2015. More specifically, in 2018 there was only one Phase II merger review, leading ultimately to an unconditional clearance (*Nokas/Avarn*), and a single case resolved by remedies (*Metso/Jonsson*). The first months of 2019 indicate that recent notification levels looks set to continue, with 25 merger filings submitted by early April. In simple cases, the Competition Authority continues to succeed in reducing its review period (averaging 12 working days for Phase I cases). In 2018, 80 per cent of transactions were reviewed within 15 working days and 46 per cent were reviewed within 10 working days. Typically, cases involving no horizontal or vertical overlaps are almost always dealt with by the Competition Authority within 10 working days.

Mirroring the trend throughout Europe for increased procedural rigour, it is also noteworthy that the Competition Authority has started to make somewhat more regular use of its stop-the-clock powers, applied in, for example, *Unilabs/Praktikertjänst Röntgen*, *FS Gas/Swedegas* and *Nokas/Avarn*. Finally, the Competition Authority's relatively new scope to block mergers without going to court has now been exercised for the first time in the *Arla/Klassiska Ostar* case, which was prohibited in April 2019. Furthermore, this case was notified on 5 December 2018 but the filing was not considered complete until 27 December, delaying the start of Phase I and demonstrating another form of heightened procedural strictness.

In *Nokas/Avarn*, the inquiry concerned the acquisition by Nokas AS of its competitor Avarn Security Holding AB, with a particular focus on staffed security services. Although the merger increased concentration in an already concentrated market, it was not considered to significantly inhibit effective competition, in part because of the presence of Securitas, number one in the market. In November 2018, the Competition Authority unconditionally cleared the transaction in Phase II, around only five weeks into the three-month period available (notwithstanding earlier stop-the-clock delays).

In *Metso/Jonsson*, Metso Sweden AB acquired Aktiebolaget PJ Jonsson och Söner, its competitor in the stone crushing industry. The Competition Authority's investigation showed that the merger would lead to a very strong position in the market for mobile crushing and screening for building and construction applications used for hard rocks. The only other significant competitor was Sandvik Construction AB, whose products most in demand by Swedish customers were in large part assembled by Jonsson. The Competition Authority considered there to be a risk that the acquisition would undermine Sandvik's approach and weaken competitive pressure on the merged entity. Sandvik stated that it would need time to take the measures required for it to continue being active in the stone crushing industry in Sweden. To support this and secure clearance, the parties committed for a transitional period of two years to permit Sandvik to continue purchasing mobile crushing and screening work from Jonsson, integrated with Sandvik's crushers as the main component, to be sold under Sandvik's brand. Customers of the merged entity would then be able to choose freely which product to purchase (Sandvik or Metso products). The commitments are intended to enable Sandvik to develop into a long-term competitive player in the relevant markets. The case was resolved in Phase I.

The *Arla/Klassiska Ostar* transaction, involving Arla Foods AB, Norrmejerier ek.för and Falköping ek.för for joint control of Svensk Mjölk AB, and thereby of the important cheese trademarks, Präst, Herrgård and Grevé, was blocked by the Competition Authority in April 2019 due to concerns that the parties would have the opportunity and incentive to provide competitors with more unfavourable terms of access to the cheese licences, as well as leading to reduced competition between them. The parties have now appealed and the court must rule within six months.

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