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CMS Guide to Merger Control in Europe 2014

January 2014

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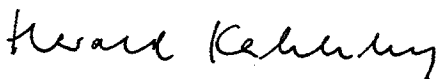
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Foreword to CMS Guide to Merger Control in Europe 2014

I am pleased to introduce the 5th edition of the CMS Guide to Merger Control in Europe for 44 jurisdictions and 42 countries. For the first time, the Guide will be published as an electronic online edition (e-guide) as well as in printed form. In the e-guide, you will be able to add comments to the guide for your personal use and receive updates. If you work with the printed form, please check the e-guide for updates.

The need to publish a 5th edition of the Guide has also resulted from substantial changes in a number of countries. The new edition of the Guide illustrates the need for practical guidance on merger control regimes all over Europe. This guide perfectly complements our CMS Guide to Cross-Border Mergers which tackles the practical corporate law issues of an international merger for 17 major jurisdictions.

I would like to thank the members of the CMS Competition Group and all others who contributed to the Guide but particularly Angelika Wiczorkowski and Jochen Hörlin for their hard work in drawing the project together.



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Editor of CMS Guide to Merger Control in Europe

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Greece

<p><i>Authority/Source</i></p>	<ul style="list-style-type: none"> — The Hellenic Competition Commission (the HCC) — Law 3959/2011 “On the protection of free competition”, in force as of 20 April 2011 (which abolished Law 703/1977 previously applicable), as amended and currently in force
<p><i>Mandatory/Voluntary</i></p>	<p>Mandatory</p>
<p><i>When to notify?</i></p>	<p>Pre-merger: within 30 days of the conclusion of the relevant agreement or the announcement of a bid to buy or exchange, or the undertaking to acquire of a controlling interest, whichever occurs first. A binding preliminary agreement may trigger such a notification obligation.</p>
<p><i>Threshold(s)</i></p>	<ul style="list-style-type: none"> — Total worldwide turnover of the participating undertakings of at least EUR 150 m; and — each of at least two of them having a total turnover in Greece of at least EUR 15 m.
<p><i>Obligation on whom</i></p>	<p>If concentration is made by an agreement, each of the parties. In all other cases, the persons or undertakings, or groups of persons or undertakings, acquiring control.</p>
<p><i>Consequences of failure to notify</i></p>	<p>Administrative fines: At least EUR 30,000 which may not exceed 10% of the undertaking's aggregate worldwide turnover.</p>
<p><i>Consequences of implementing a transaction despite obligation to suspend until clearance</i></p>	<p>A fine of at least EUR 30,000 and up to 10% of the aggregate worldwide turnover of the party in breach.</p>
<p><i>Consequences of implementing transaction despite prohibition decision</i></p>	<p>HCC may order separation of the undertakings or assets merged, disposal of assets or shares acquired, or other measures deemed necessary to revert to the pre-concentration situation.</p> <p>Upon default, a fine of up to 10% of the aggregate worldwide turnover of the party in breach and an additional penalty of EUR 10,000 per day of non-compliance with the HCC's decision.</p>

Consequences of any breach of merger control rules

Administrative fines:

For a société anonyme, the persons being members of its board and/or responsible for implementing the company's decisions are jointly liable for an administrative fine imposed on the company, whereas HCC may impose on those natural persons additional fines of EUR 200,000–EUR 2 m in specific circumstances.

Criminal penalties:

EUR 15,000–150,000, imposed on natural persons only.

Stages

First level: one month from receipt of initial notification.

Full investigation: 90 calendar days from commencement of the full investigation (or exceptionally, 105 days, when HCC accepted undertakings submitted to it late) which is made following one month from receipt of initial notification.

Foreign-to-foreign mergers caught?

Yes, if they have an effect on competition in Greece, even potentially.

Treatment of JVs

The creation of a joint venture performing on a permanent basis all the functions of an autonomous economic entity is considered a concentration and subject to merger control, provided it does not aim or result in coordination of the competitive behaviour of the undertakings forming it.

Up to date as of 2 January 2014