

Israel Competition Authority Introduces New Merger Regulations

On January 12, 2022, the Knesset's Economic Affairs Committee approved the Economic Competition Regulations (Registration, Posting and Reporting of Transactions), 2004 (the “**New Regulations**”).

The New Regulations address two major issues - raising the merger threshold requiring filing and ICA approval, and replacing the existing merger notice form with a new form requesting additional information, in order to streamline and economize the ICA's examination process. The new form and additional information requirements will come into effect two months after the New Regulations are published in the Official Gazette.

The New Regulations significantly expand the scope of information that a merging party must provide in Israeli merger notices. Consequently, locating and processing the information is expected to extend merger notices' submission preparation time.

Raising the merger threshold requiring filing and approval

- ❖ Currently, there is a duty to report a proposed merger and obtain approval when the aggregate sales revenue in Israel of the parties to the merger exceeds ILS 367,930,000 and the sales revenue in Israel of at least two of the merging companies exceeds ILS 10 million each. The new regulations raise the latter threshold from ILS 10 million to ILS 20 million, in order to reduce the volume of transactions which require approval.

Extensive changes to the merger notice form

- ❖ **Overall, the New Regulations significantly expand the scope of the information that each party to the proposed merger will be required to provide.**
- ❖ To illustrate, a merger between two corporations will require each one to provide detailed information, including:
 - ❖ With regard to all types of mergers, the form requires extensive information relating to shareholders / owners of the filing party, the activity of the final shareholder and his holdings, and the activity and holdings of the filing party.
 - ❖ Full details of all products or services of the corporation and affiliated entities which are either competitive, inputs, complementary or sold to the same client type as the products of the other party to the merger, such as sale volume, market share, client data and supplier data. The parties will be required to attach or refer to independent information supporting market share estimates or detail the basis and calculation method of the estimated market share for the merging parties and their competitors.

- ❖ Under certain circumstances, **the parties will be required to provide information on potential competition between the merging parties**. Potential competition is defined as parties who competed during the two-year period prior to the merger; parties who disclosed their ability or intent to produce or supply alternative goods; parties who can currently produce or supply alternative goods; or parties who can steadily produce or supply alternative goods within one year at a reasonable cost.
- ❖ Details regarding merger notices submitted under the merger control laws in other jurisdictions.
- ❖ Under certain circumstances in the case of a transaction between competitors:
 - **A competition analysis of each field of activity related to the merger**, including the competition between competitors, description of distinct groups of clients and their characteristics, the dominant competition component (such as price, quality or quantity), market differentiation and whether the market has a practice of tenders or price offers.
 - **Full details on additional fields not related to the merger**, and the market shares of each party in these fields.
 - **Full details relating to potential competition loss**, as well as full details on the existence of potential competition in the three years prior to the merger.

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