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The latest amendments to the merger rules were introduced in June 2015 and give the Romanian Competition Council (RCC) the power to modify the turnover based thresholds that trigger mandatory notification of economic concentrations. This means that the RCC now has the flexibility to adjust the value of the thresholds based on the socio-economic context. Adjustments can be made to the thresholds after obtaining the approval of the Ministry of Economy, Trade and Tourism.

Other amendments to the merger rules were introduced in 2014 and 2012 and include the following:

- any request for consultations with the RCC regarding a merger has to be submitted at least 14 days prior to the notification and the relevant information (parties, market definition, information on the market, summary of the transaction, etc) on the merger has to be sent to the RCC at least five days before the meeting.
- in relation to qualification for the simplified procedure, where two or more undertakings merge or acquire sole or joint control of another, the combined market share thresholds have been increased; for horizontal merging activities, the merger market share has to be less than 20%; in the case of vertical mergers, it has to be less than 30%. Also, any merger in which at least two parties are active in a neighbouring market, or where one or several parties have an individual market share of at least 30% on any market of the product where there is no relationship between the parties (horizontally or vertically) but where another party is active in a neighbouring market, is excluded from the simplified procedure.
- in highlighting the potential significant impact on other markets, the parties to the merger must indicate if one of them has a market share of at least 30% and any other party of the merger is a potential competitor on that respective market; a potential competitor is a party to the merger which intends to enter the respective market or has sought to or intended to enter the market during the previous three years.
- the possibility for the undertakings concerned to notify transactions for legal certainty where the specific circumstances of the case do not clearly indicate the obligation to notify the operation to the RCC.
- the introduction of a new procedure by which mergers are also notified to the Council of National Defence (SCND) in order to test compatibility with the state defence criteria. The procedure with the SCND occurs in parallel with the RCC notification. In case the SCND's analysis indicates that a transaction raises serious issues regarding its compatibility with state defence criteria, the SCND may propose to the government the issuance of a government resolution banning the transaction. No prohibition decision has however been made so far.

To read the entire article, please download the .pdf attached.