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Merger Control 2025

21st Edition



Contributing Editors:

Nigel Parr & Steven Vaz

Ashurst LLP

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59 Tanner Street
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customer.service@glgroup.co.uk
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Publisher
Jon Martin

Production Deputy Editor
Melissa Braine

Head of Production
Suzie Levy

Chief Media Officer
Fraser Allan

CEO
Jason Byles

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Expert Analysis Chapters

- 1** Catch-22 and Other Issues in Merger Control in Europe
Nigel Parr, Gabriele Accardo, Fiona Garside & Javier Torrecilla, Ashurst LLP
- 11** Loss of Potential Competition, Ecosystems, and AI – A New Frontier for EU and UK Merger Control
Ben Forbes & Mat Hughes, AxiPartners
- 23** A Year in Review: All Change, Please? Some Key Developments in UK Merger Control, 2024
Neil Baylis & Emma Waterhouse, CMS

Q&A Chapters

- 30** **Albania**
Srđana Petronijević, Danijel Stevanović & Filip Zafirovski, Schoenherr
- 40** **Austria**
Dr. Valerie Mayer, Herbst Kinsky Rechtsanwälte GmbH
- 49** **Bosnia & Herzegovina**
Srđana Petronijević & Danijel Stevanović, Schoenherr
Minela Šehović, independent attorney-at-law in cooperation with Schoenherr
- 59** **Brazil**
Gesner Oliveira, Rafael Oliveira, Jéssica Maia & José Matheus Andrade, GO Associados Consultoria Empresarial
- 69** **Canada**
Mark Katz, Umang Khandelwal & Teraleigh Stevenson, DAVIES
- 81** **China**
Liang Ding, DeHeng Law Offices
- 96** **Croatia**
Ana Mihaljević, Schoenherr
- 105** **European Union**
Ken Daly, Steve Spinks & Iva Todorova, Sidley Austin LLP
- 122** **Finland**
Anna Roubier, HPP Attorneys
- 132** **France**
Christophe Lemaire & Guillaume Vatin, Ashurst LLP
- 146** **Germany**
Dr. Tatjana Mühlbach & Dr. Andreas Boos, BUNTSHECK Rechtsanwälts-gesellschaft mbH
- 157** **Greece**
Efthymios Bourtzalas, MSB Associates
- 168** **India**
Neelambera Sandeepan & Charanya Lakshmikumaran, Lakshmikumaran & Sridharan
- 177** **Japan**
Ryohei Tanaka, Tsuyoshi Isshiki, Nobuaki Ito & Haruki Koyama, Nagashima Ohno & Tsunematsu
- 187** **Korea**
John H. Choi & Sangdon Lee, Shin & Kim LLC
- 195** **Kosovo**
Filip Zafirovski, Schoenherr
- 204** **Malaysia**
Yuki Hashimoto, Farhatun Najad Zulkipli, Heng Zhen Hung (Zed) & Ahmad Sharil Ramli, One Asia Lawyers
- 214** **Mexico**
Gustavo Alcocer & Luis E. Astorga Díaz, OLIVARES
- 222** **Montenegro**
Srđana Petronijević, Danijel Stevanović, Zoran Šoljaga & Nina Rašljanin, Moravčević, Vojnović i Partneri AOD Beograd in cooperation with Schoenherr
- 231** **North Macedonia**
Srđana Petronijević, Danijel Stevanović, Filip Zafirovski & Zoran Kobal, Schoenherr
- 241** **Portugal**
Pedro de Gouveia e Melo & Dzhamil Oda, Morais Leitão, Galvão Teles, Soares da Silva & Associados
- 255** **Romania**
Adrian Șter & Raluca Maxim, 360Competition
- 265** **Serbia**
Srđana Petronijević, Danijel Stevanović, Nina Rašljanin & Zoran Kobal, Moravčević, Vojnović i Partneri AOD Beograd in cooperation with Schoenherr
- 275** **Singapore**
Lim Chong Kin & Dr. Corinne Chew, Drew & Napier LLC
- 288** **Slovakia**
Ivan Gašperec & Jozef Boledovič, NOMUS
- 297** **Sweden**
Peter Forsberg & Philip Thorell, Snellman Advoktbyrå AB
- 305** **Switzerland**
David Mamane & Amalie Wijesundera, Schellenberg Wittmer Ltd.
- 315** **Taiwan**
Stephen Wu, Yvonne Y. Hsieh & Wei-Han Wu, Lee and Li, Attorneys-at-Law

Q&A Chapters Continued

324**Thailand**

Pitch Benjatikul & Angsuwee Saeiew,
Anderson Mōri & Tomotsune (Thailand) Co., Ltd.

335**Turkey/Türkiye**

Dr. Gönenç Gürkaynak & Öznur İnanılır,
ELIG Gürkaynak Attorneys-at-Law

350**United Kingdom**

Nigel Parr, Duncan Liddell, Steven Vaz &
Fiona Garside, Ashurst LLP

371**USA**

Jim Lowe & Edward W. Sharon, Sidley Austin LLP

382**Vietnam**

Dr. Nguyen Anh Tuan, Tran Hai Thinh & Tran Hoang My,
LNT & Partners



From the Publisher

Welcome to the 21st edition of *ICLG – Merger Control*, published by Global Legal Group.

This publication provides corporate counsel and international practitioners with comprehensive jurisdiction-by-jurisdiction guidance to merger control laws and regulations around the world, and is also available at www.iclg.com.

The publication begins with three expert analysis chapters written by Ashurst LLP, AlixPartners, and CMS that provide further insight into merger control developments.

The question and answer chapters, which in this edition cover 33 jurisdictions, provide detailed answers to common questions raised by professionals dealing with merger control laws and regulations.

As always, this publication has been written by leading merger control lawyers and industry specialists, for whose invaluable contributions the editors and publishers are extremely grateful.

Global Legal Group would also like to extend special thanks to contributing editors Nigel Parr & Steven Vaz of Ashurst LLP for their leadership, support and expertise in bringing this project to fruition.

Jon Martin
Publisher
Global Legal Group



Sweden



Peter Forsberg



Philip Thorell

Snellman Advoktbyrå AB

1 Relevant Authorities and Legislation

1.1 Who is/are the relevant merger authority(ies)? If relevant, please include details of: (i) independence from government; (ii) who the senior decision-makers are (e.g. Chair, Chief Executive, Chief Economists), how long they have been in position, and their professional background (lawyer, economist, academia, industry, professional services, politics, etc.); and (iii) any relevant key terms of appointment (e.g. duration of appointment) of those in leadership positions (such as Chair, Chief Executive, and Chief Economist).

The Swedish Competition Authority (“SCA”) is responsible for merger control in Sweden. It has the power to review mergers and acquisitions of control (collectively defined as “concentrations” between undertakings, *cf.* question 2.1), and the power to prohibit notified concentrations as first instance. The SCA’s decisions may be appealed to court, *cf.* question 5.10 below.

Rikard Jermsten has been the Director General for the SCA since 2017, although he is set to leave the authority in 2024. His replacement is yet to be confirmed. Mr Jermsten is supported by Hanna Witt, Deputy Director General; Marie Östman, Chief Legal Officer; and Arvid Fredenberg, Chief Economist. Maria Ulfensjö Baltatzis heads the Merger Control Unit.

1.2 What is the merger legislation?

The central legislative act regulating merger control in Sweden is the Competition Act (2008:579), which stipulates mandatory notification of all concentrations exceeding certain turnover-based thresholds (see question 2.4 below). The Competition Act contains a stand-still obligation, which prohibits the implementation of concentrations prior to the SCA’s clearance decision. The Competition Act is, to a large extent, modelled on and interpreted in accordance with EU competition rules, and is supplemented by the Competition Regulation (2021:87). In 2010, the SCA issued a regulation on notification of concentrations with guidelines, detailing the requirements on notifications. A new regulation on notifications is expected to enter into force in the autumn of 2024; see question 6.3 below.

1.3 Is there any other relevant legislation for foreign mergers?

Mergers to which Swedish companies are party may be subject to authorisation under both the Swedish screening of the Foreign Direct Investments Act (2023:560), and the narrower

Swedish protective security act (2018:585), which regulates the protection of national security.

Under the new Swedish screening of the Foreign Direct Investments Act, investments in Swedish companies conducting so-called protected activities are subject to prior approval above certain voting rights thresholds. Filings are reviewed in two phases, which may maximally last 25 business days and three business months, respectively. Phase 2 may also be extended by three months if there are “particular reasons”. A failure to file, or implementing a transaction prior to having received approval, may be penalised by an administrative fine of maximally SEK 100 million (approx. EUR 8.7 million). Transactions that are prohibited in phase 2 are null and void.

In parallel, the Swedish protective security act mandates that sellers of businesses or assets that are of importance to Sweden’s national security receive prior approval from the relevant sectoral authority. It applies in the most-crucial parts of Sweden’s civil society, such as airports, major hospitals, powerplants and critical service suppliers.

1.4 Is there any other relevant legislation for mergers in particular sectors?

While the Competition Act’s merger control regime aims to maintain effective competition in all economic sectors, there are a few sector-specific regulations in place, e.g., within the financial sector, education and gambling, which aim to maintain an appropriate ownership of undertakings active in those sectors. Where sector-specific regulations apply, changes in company control may also require approval from sector-specific authorities.

1.5 Is there any other relevant legislation for mergers which might not be in the national interest?

The Competition Act’s merger control regime is applicable to all economic sectors.

2 Transactions Caught by Merger Control Legislation

2.1 Which types of transaction are caught – in particular, what constitutes a “merger” and how is the concept of “control” defined?

Mergers, acquisitions, and the creation of full-function joint ventures are referred to as “concentrations” between undertakings.

A “concentration” is deemed to arise when a change of control over an undertaking on a lasting basis results from:

1. the merger of two or more previously independent undertakings or parts of undertakings; or
2. the acquisition, by one or more persons already controlling at least one undertaking, or by one or more undertakings, whether by purchase of securities or assets, by contract or by any other means, of direct or indirect control of the whole or parts of one or more other undertakings.

Furthermore, the creation of a joint venture performing on a lasting basis all the functions of an autonomous economic entity constitute a concentration within the meaning of point 2 above.

The Competition Act does not contain a definition of “control”. However, the concept of control is interpreted in line with the EU Merger Regulation’s definition of control. Accordingly, control is constituted by rights, contracts, or any other means that, either separately or in combination, confer the possibility of exercising decisive influence on an undertaking, in particular by:

1. the ownership or the right to use all or part of the assets of an undertaking; or
2. the rights or contracts that confer decisive influence on the composition, voting or decisions of the organs of an undertaking.

Once it has been determined that a transaction constitutes a “concentration” within the meaning of the Competition Act, the transaction will trigger an obligation to notify the SCA if the relevant turnover thresholds outlined under question 2.4 below are met.

2.2 Can the acquisition of a minority shareholding or other form of influence amount to a “merger”?

Yes, an acquisition of a minority shareholding and other arrangements, e.g., shareholders’ agreement, may constitute a “concentration” insofar as the transaction confers “control” over the target, as set out in question 2.1 above.

2.3 Are joint ventures subject to merger control?

The creation of a joint venture that, on a lasting basis, performs all the functions of an autonomous economic entity constitutes a concentration (see question 2.1 above). The Competition Act does not contain an explicit definition of a full-function joint venture; however, the SCA’s Guidelines refer to the definition provided in the European Commission’s consolidated jurisdictional notice.

2.4 What are the jurisdictional thresholds for application of merger control?

A concentration between undertakings (as defined in question 2.1 above) must be notified to the SCA if:

1. the combined turnover in Sweden of all the undertakings concerned is more than SEK 1 billion (approx. EUR 87.2 million or USD 94.3 million (average exchange rates for 2023)); and
2. the aggregate turnover in Sweden of each of at least two of the undertakings concerned is more than SEK 200 million (approx. EUR 17.4 million or USD 18.9 million (average exchange rates for 2023)).

If the SEK 1 billion combined turnover threshold in point 1 is fulfilled, but not the SEK 200 million individual threshold in point 2, and if there are “particular grounds”, the SCA may order the parties to submit a notification, even post-closing; please see question 2.7 below.

Furthermore, a concentration that exceeds the thresholds in the EU Merger Regulation will be subject to review by the European Commission; please see question 2.7 below.

2.5 Does merger control apply in the absence of a substantive overlap?

Yes, the Competition Act applies to all concentrations that fulfil the thresholds, regardless of the relation between the parties’ business activities.

2.6 In what circumstances is it likely that transactions between parties outside your jurisdiction (“foreign-to-foreign” transactions) would be caught by your merger control legislation?

“Foreign-to-foreign” transactions are not exempt from the SCA’s scrutiny under the Competition Act. Thus, concentrations between non-Swedish undertakings must be notified to the SCA if the transaction constitutes a “concentration” and the parties’ turnover attributable to customers located in Sweden meets the turnover thresholds. To illustrate, the creation of a joint venture without business activities in Sweden may be notifiable in Sweden if the joint venture’s parent companies on a group level fulfil the thresholds in Sweden.

2.7 Please describe any mechanisms whereby the operation of the jurisdictional thresholds may be overridden by other provisions.

If the SEK 1 billion combined turnover threshold is fulfilled, but not the SEK 200 million individual threshold (*cf.* question 2.4 above), the SCA may order the parties to notify a concentration, provided there are “particular grounds” for such an order. Although there is no exhaustive definition of what constitutes “particular grounds”, the SCA’s Guidelines and the Competition Act’s preparatory work provide examples: the parties have large combined market shares or are both active on a concentrated market; the target company supplies important input goods, is an important customer, gatekeeper to an important sales channel or is a market maverick; or if the acquirer has recently acquired other companies on the market where the target company is active and where the acquirer already holds a strong market position. Moreover, particular grounds may be at hand where the parties’ competitive importance is not reflected in their turnover; for instance, in the digital economy or if the target is a franchisor.

If the SEK 1 billion threshold is fulfilled, the parties may voluntarily notify a concentration to the SCA. Thus, a voluntary notification could be considered in situations where the parties believe that the SCA may have “particular grounds” to order a notification.

The SCA’s power to prohibit a concentration ceases two years from when the concentration arose, which means that an order to notify may, in theory, constitute a risk relatively long after the closing of the transaction, which may lead to uncertainties in borderline cases.

Albeit uncommon, the SCA has in recent years made more use of its power to order a notification (EasyPark’s acquisition

of Inteleon in 2019 and S:t Eriks' acquisition of Meag Va-system in 2022). The SCA received two voluntary notifications in 2024, one in 2023, and two in 2022.

Furthermore, as Sweden is a Member State of the EU, a concentration that fulfils the Swedish thresholds could be referred to the European Commission in two situations:

- First, a concentration that exceeds the thresholds laid down in the EU Merger Regulation will be subject to exclusive review by the European Commission. Thus, the EU Merger Regulation provides for a “one-stop-shop” regime where the European Commission's jurisdiction will supersede the national competition authorities' jurisdiction.
- Second, the EU Merger Regulation contains a referral mechanism which can transfer jurisdiction, both pre-filing and post-filing, from the European Commission to a Member State or *vice versa* to ensure that the concentration is reviewed by the most suitable authority. A concentration that does not meet the EU thresholds could be transferred to the European Commission if the concentration is notifiable in several Member States. Conversely, a concentration that fulfils the EU thresholds may be transferred to a national competition authority if the anticipated effects on competition are primarily national in scope.

2.8 Where a merger takes place in stages, what principles are applied in order to identify whether the various stages constitute a single transaction or a series of transactions?

The calculation of turnover relevant for the turnover thresholds shall include all transactions made between the same parties within the last two years.

3 Notification and its Impact on the Transaction Timetable

3.1 Where the jurisdictional thresholds are met, is notification compulsory and is there a deadline for notification?

It is mandatory to notify concentrations that meet the turnover thresholds. There is no obligation to notify within a specific timeframe. However, as the Competition Act contains a stand-still obligation, the parties may not complete the transaction by transferring control (as defined under question 2.1 above) over the target from the seller to the purchaser or by the purchaser otherwise exercising a decisive influence over the target, prior to the SCA's clearance decision.

3.2 Please describe any exceptions where, even though the jurisdictional thresholds are met, clearance is not required.

There is no exception to the obligation to notify when the turnover thresholds are met.

3.3 Is the merger authority able to investigate transactions where the jurisdictional thresholds are not met? When is this more likely to occur and what are the implications for the transaction?

The SCA may order notification of a concentration if the SEK 1 billion combined turnover threshold is fulfilled but not the

SEK 200 million individual threshold, provided there are “particular grounds” for such an order (cf. questions 2.4 and 2.7 above).

3.4 Where a merger technically requires notification and clearance, what are the risks of not filing? Are there any formal sanctions?

The Competition Act does not contain any direct sanctions in case the parties fail to notify a notifiable concentration. However, if the SCA learns about such a concentration, e.g., through media monitoring or a tip from another market player, it may order the parties to submit a notification under a penalty of a fine. The SCA's power to prohibit a concentration ceases two years from when the concentration arose. Moreover, if the SCA ultimately prohibits a concentration, the agreements between the parties that led to the concentration will be invalidated.

3.5 Is it possible to carve out local completion of a merger to avoid delaying global completion?

Generally, it is not possible to complete a cross-border concentration which is notifiable in Sweden before the SCA's clearance of the complete concentration. However, on a case-by-case basis, the SCA may release the parties from the stand-still obligation, which could facilitate completion in other jurisdictions prior to the SCA's clearance.

3.6 At what stage in the transaction timetable can the notification be filed?

A notification may be filed once the parties can demonstrate their intention to go through with the concentration, such as through a letter of intent or an announcement to make a public bid. As the notification will be publicly available from the date of filing, it is common to notify after signing the transaction document with a clause stipulating merger control approval as a precondition (condition precedent) to completing the transaction.

3.7 What is the timeframe for scrutiny of the merger by the merger authority? What are the main stages in the regulatory process? Can the timeframe be suspended by the authority?

The statutory period for the SCA's initial review is 25 business days (“Phase I”), starting on the business day after the notification was filed, provided that the SCA deems the notification complete. The SCA will not issue a formal declaration of completeness, and in complex matters it is advisable to engage in pre-notification discussions with the SCA to ensure that the notification is deemed complete once filed. Before the end of Phase I, the SCA will either clear the concentration or open an in-depth review (“Phase II”), which may last up to three calendar months.

Phase I will be extended to 35 business days if the parties propose remedies within the initial 25 working days. The SCA may extend Phase II by one month at a time if the parties consent to such an extension or, in the absence of the parties' consent, if the SCA has extraordinary reasons for such an extension.

The SCA may temporarily “stop the clock” in either phase if a party to the concentration has failed to comply with an information request. The SCA may also stop the clock on request by the notifying party as illustrated during SCA's

review of Remondis' acquisition of Delete in 2023, where the parties requested a 15-day respite, as well as the SCA's review of GrandVision's acquisition of Smarteyes in 2022, where the parties consented to extending Phase II. In case the SCA has stopped the clock, the process will recommence on the business day after compliance with the request. Furthermore, on request by the parties, the SCA may stop the clock temporarily for as long as the SCA deems appropriate.

The SCA's target is to conclude unproblematic concentrations (without horizontal overlaps or vertical relationships) within 15 business days. In 2023, the SCA's average handling time was 15 business days for concentrations cleared in Phase I and 97 business days for concentrations cleared in Phase II.

3.8 Is there any prohibition on completing the transaction before clearance is received or any compulsory waiting period has ended? What are the risks of completing before clearance is received? Have penalties been imposed in practice?

The Competition Act contains a stand-still obligation, stipulating that once a concentration has been notified, it must not be completed by transferring control over the target from the seller to the purchaser or by the purchaser otherwise exercising a decisive influence over the target, prior to the SCA's clearance decision.

The stand-still obligation is not sanctioned. If deemed necessary in a specific case, the SCA can, however, order the parties of a notified transaction to adhere to the stand-still obligation under the penalty of a fine. During the SCA's review of Apotekstjänst's acquisition of Svensk Dos in 2024, the SCA decided to grant an exemption from the stand-still obligation so that Svensk Dos could engage Apotekstjänst as a subcontractor to fulfil a customer contract regarding delivery of pharmaceuticals due to patient safety concerns.

3.9 Is a transaction which is completed before clearance is received deemed to be invalid? If so, what are the practical consequences? Can validity be restored by a subsequent clearance decision?

No, but if the SCA, after a substantive review, ultimately decides to prohibit a concentration, the agreements between the parties (e.g., a share or asset purchase agreement) will be null and void.

3.10 Where notification is required, is there a prescribed format?

Notifications must follow a prescribed format set out by the SCA's Regulation on Notification of Concentrations, similar to the Form CO annexed to the EU Merger Regulation. A Swedish language version can be found here: https://www.konkurrensverket.se/globalassets/dokument/om-oss/forfattningssamling/kkvfs_2010-3.pdf. A revised regulation on notification of concentrations is expected to enter into force in the end of 2024; cf. question 6.3 below.

3.11 Is there a short form or accelerated procedure for any types of mergers? Are there any informal ways in which the clearance timetable can be speeded up?

There is no separate short-form notification for unproblematic concentrations. However, if there is no horizontal overlap or

vertical relationship between the parties or, in case of a horizontal overlap where the combined market share is less than 20% or in case of a vertical relationship where the market share is less than 30% on the upstream or downstream market, the notification requires less information from the parties. The SCA's aim is to clear unproblematic concentrations (without horizontal overlaps or vertical relationships) within 15 business days.

3.12 Who is responsible for making the notification?

In concentrations resulting from the acquisition of control, the acquirer is responsible for the notification of the concentration to the SCA. If the concentration consists of a merger between two previously independent undertakings, those parties are jointly responsible for the notification.

3.13 Are there any fees in relation to merger control?

There are no filing fees payable in relation to a merger control procedure.

3.14 What impact, if any, do rules governing a public offer for a listed business have on the merger control clearance process in such cases?

The stand-still obligation provides that concentrations must not be completed by transferring control over the target from the seller to the purchaser, or by the purchaser otherwise exercising a decisive influence over the target prior to the SCA's clearance decision. The Competition Act does not contain an explicit exception from the stand-still obligation in situations where control is acquired over a listed undertaking through the purchase of shares over a stock exchange. However, in such situations, where the purchaser is unable to notify the concentration prior to the acquisition, the SCA's Guidelines provide that the stand-still obligation prohibits the acquirer from exercising the rights associated with the shares prior to the SCA's clearance. Thus, an acquisition over a listed target remains notifiable to the SCA if the relevant turnover thresholds are met, and the stand-still obligation applies in the sense that the acquirer may not exercise the rights related to the purchased shares, including voting rights, prior to the SCA's clearance. The parties may additionally ask the SCA for an exception from the stand-still obligation.

3.15 Are notifications published?

Information on notified concentrations is listed in the SCA's registry, which is accessible on the SCA's website. Both the parties' summary of the concentration and the SCA's decision are published in the registry. Furthermore, most records of Swedish authorities, including those of the SCA, are publicly accessible upon request under the public's constitutional right to access authority records. However, business secrets submitted to the SCA in relation to merger reviews and pre-notification communications are exempt from public access and will be kept confidential upon the parties' request (a non-confidential (redacted) version of the notification must be annexed to the notification).

4 Substantive Assessment of the Merger and Outcome of the Process

4.1 What is the substantive test against which a merger will be assessed?

The SCA shall prohibit a concentration that would significantly impede effective competition within Sweden or in a substantial part of the country (“substantive test”). In particular, account shall be taken of whether the concentration creates or strengthens a dominant position. The substantive test focuses on competition concerns, and the theories of harm associated with the substantive test generally concerns whether the concentration could give rise to non-coordinated or coordinated effects on competition.

As the Competition Act’s substantive test is modelled on the substantive test of the EU Merger Regulation, the European Commission’s decisional practice may provide useful guidance on the application of the substantive test.

4.2 To what extent are efficiency considerations taken into account?

The SCA will take concentration specific efficiency claims into account and assess whether such claims could outweigh potential negative effects on competition.

4.3 Are non-competition issues taken into account in assessing the merger?

The main objective of the substantive test is to maintain effective competition. Thus, the SCA will not take other public interests into account, except for situations relating to national security, for which there is an explicit rule stipulating that a concentration may not be prohibited if a prohibition would conflict with important national security interests or national supply interests.

4.4 What is the scope for the involvement of third parties (or complainants) in the regulatory scrutiny process?

All notified concentrations will be listed in the SCA’s registry, which is accessible via the SCA’s website. In unproblematic cases, the SCA will typically not consult third parties. In more complex cases, the SCA will often send information requests to the parties’ customers, suppliers, competitors and other market participants, and will also hear other third parties’ opinions sent to the SCA during the review. There is no formal procedure to file such an opinion.

4.5 What information gathering powers (and sanctions) does the merger authority enjoy in relation to the scrutiny of a merger?

The SCA has far-reaching powers to order the parties and third parties to provide any information that the SCA deems necessary for the assessment of a notified concentration. An order to provide information may be issued under a penalty of a fine. Orders to provide information and decisions to impose penalties are available to the public.

4.6 During the regulatory process, what provision is there for the protection of commercially sensitive information?

The case file of the SCA is generally available to the public. However, business secrets (including operational circumstances and research) are generally covered by secrecy and are thus confidential. The filing party may request information to be protected by secrecy and submit a non-confidential version of the notification, although it is ultimately up to the SCA to decide whether information is to be treated as such. It can be noted that a copy of the transaction documents (including any side letters) must be annexed to the notification but will be kept confidential under the secrecy rules.

5 The End of the Process: Remedies, Appeals and Enforcement

5.1 How does the regulatory process end?

The SCA’s review ends by either a clearance or prohibition decision. Clearance decisions in unproblematic cases do typically not contain any reasons for the decision. However, challenging cases generally contain the SCA’s reasons, and prohibition decisions always contain the SCA’s reasoning. Generally, the SCA only issues press releases on its website in relation to the two latter types of cases. Nevertheless, as noted above, all decisions are (subject to redactions of information covered by secrecy) available to the public upon request.

5.2 Where competition problems are identified, is it possible to negotiate “remedies” which are acceptable to the parties?

If the SCA identifies competition concerns, parties may propose commitments to remedy such concerns. Commitments can be structural (e.g., a divestiture) or behavioural (e.g., non-discrimination of third parties or granting them access to resources such as intellectual property).

5.3 Are there any (formal or informal) policies on the types of remedies which the authority will accept, including in relation to vertical mergers?

The SCA’s guidance on concentrations refers to the European Commission’s notice on remedies.

5.4 To what extent have remedies been imposed in foreign-to-foreign mergers? Are national carve-outs possible and have these been applied in previous deals?

As noted in question 2.5 above, “foreign-to-foreign” mergers are not exempt from the SCA’s scrutiny if the transaction constitutes a “concentration” and the parties’ turnover meets the turnover thresholds. Thus, the SCA’s approach to remedies is based on the concentration’s effects in Sweden rather than the parties’ domicile. Remedies can also be imposed on foreign companies.

5.5 At what stage in the process can the negotiation of remedies be commenced? Please describe any relevant procedural steps and deadlines.

The scope of commitments and the exact deadlines in which to implement them are issues that the SCA and the parties will discuss on a case-by-case basis. However, commitments proposed during Phase I can only be considered by the SCA if the competition concerns are clear cut and easy to remedy. Commitments proposed during Phase I will extend the review from 25 working days to 35 working days. There is no exact deadline for submitting commitments in Phase I; however, parties should bear in mind that the SCA may decide to open a Phase II investigation prior to the 25-working-day deadline of Phase I.

Commitments proposed during Phase II should be filed to the SCA no later than three weeks before the end of the phase. If commitments are proposed later in Phase II, e.g., in connection with an oral procedure, the parties should at the same time be prepared to give consent to an extension of the phase to enable the SCA to conduct a market test and assess whether the proposed commitment is sufficient to remedy the competition concerns. If the SCA has decided to extend the phase, commitments should be sent to the SCA no later than three weeks before the new deadline expires.

5.6 If a divestment remedy is required, does the merger authority have a standard approach to the terms and conditions to be applied to the divestment?

The SCA has not published detailed guidelines on remedies; instead, the SCA's Guidelines explicitly refer to the European Commission's notice on remedies for guidance.

5.7 Can the parties complete the merger before the remedies have been complied with?

The exact scope of commitments will be negotiated on a case-by-case basis and could entail both pre-completion and post-completion commitments. The SCA's practice has generally been to accept post-completion commitments.

5.8 How are any negotiated remedies enforced?

A commitment negotiated with the SCA will typically be made a condition of the clearance decision and subject to a penalty of a fine in case the parties breach their commitment. The size of the fine is decided on a case-by-case basis to ensure a deterrent effect.

5.9 Will a clearance decision cover ancillary restrictions?

A clearance decision covers ancillary restrictions that are directly related and necessary to the implementation of the concentration, in accordance with the Commission Notice on restrictions directly related and necessary to concentrations (2005/C 56/03).

5.10 Can a decision on merger clearance be appealed?

Clearance decisions cannot be appealed and are as such effective immediately. In cases of mergers and acquisitions,

prohibition decision may only be appealed by the buyer, although the seller may apply to participate in the appeal as an independent intervener. Third parties have no right to appeal a prohibition. An appeal will be heard by the Patent and Market Court in Stockholm ("PMC"), which will conduct a full review of the merits of the case. The PMC must deliver its judgment within six months from the appeal. The PMC's judgment may be appealed within three weeks to the Patent and Market Court of Appeal ("PMCA"), which should deliver its judgment within three months from the deadline to appeal the PMC judgment. Both the PMC and the PMCA may extend the review period by one month at a time if the parties consent to such an extension or, in the absence of consent, if the court has extraordinary reasons for such extension.

5.11 What is the time limit for any appeal?

A prohibition may only be appealed by the buying party to the concentration within three weeks from the date of the decision (*cf.* question 5.10 above).

5.12 Is there a time limit for enforcement of merger control legislation?

The SCA's prohibition decision must be delivered within two years from when the concentration arose.

6 Miscellaneous

6.1 To what extent does the merger authority in your jurisdiction liaise with those in other jurisdictions?

The SCA cooperates with the European Commission and the national competition authorities in all EU Member States within the European Competition Network. Moreover, a Nordic cooperation agreement enables the SCA to cooperate closely with the competition authorities in Denmark, Finland, Iceland and Norway.

6.2 What is the recent enforcement record of the merger control regime in your jurisdiction?

The SCA publishes statistics on concentration cases on a yearly basis. In 2023, the SCA received 82 notifications. This is a decrease compared to 2022, when 121 concentrations were notified. In the last three years, approximately two to three cases per year have been subject to a Phase II investigation. Outright prohibition decisions are relatively unusual, which implies that parties typically abandon problematic concentrations that could not be remedied on terms acceptable to the parties and/or the SCA. In 2024, the SCA issued its first prohibition decision since 2019 (in the case of the planned acquisition of Svensk Dos by Apotekstjänst).

6.3 Are there any proposals for reform of the merger control regime in your jurisdiction?

The SCA has released a draft for a new regulation on the notification of concentrations, expected to be finalised and enter into force in the autumn of 2024. The new regulations aim to make the review of notifications more efficient, and to further align the information requirements for notifications with those applicable under the EC Merger Regulation. The new

regulation introduces additional information requirements for certain categories of mergers (in relation to relevant data and internal documents) and requires notifying parties to specify all plausible alternative market definitions. Moreover, the SCA encourages pre-notification contacts to a greater extent.

6.4 Please identify the date as at which your answers are up to date.

The answers are up to date as at 25 September 2024.

7 Is Merger Control Fit for Digital Services & Products?

7.1 In your view, are the current merger control tools suitable for dealing with digital mergers?

The SCA has stated that the current Competition Act, which includes a possibility to review certain non-notifiable concentrations, is well suited to review concentrations in digital markets. We generally agree with that statement. Dealing with digital markets requires an understanding on how the competitive dynamic might differ from other types of markets, which the SCA, in our experience, is well versed in.

7.2 Have there been any changes to law, process or guidance in relation to digital mergers (or are any such changes being proposed or considered)?

There have not been any changes to law or process or guidance in relation to digital mergers recently. However, the

government is currently investigating whether companies in certain sectors or markets should be required to inform the SCA about mergers that are not subject to mandatory notification.

7.3 In your view, have any cases highlighted the difficulties of dealing with digital mergers? How has the merger authority dealt with such difficulties?

In a merger control case concerning an acquisition in the market for mobile payment services (Easypark's acquisition of Inteleon in 2019), which did not meet the turnover thresholds, the SCA found particular grounds to order the acquisition to be notified and conducted an in-depth review before ultimately clearing the concentration. The case highlights the fact that the SCA takes an active role in apprehending non-notifiable concentrations that involve small but important competitors in fast-moving digital markets. Moreover, the SCA recently initiated a Phase II review of the establishment of the joint venture Agronod, which is intended to provide data-sharing services for agricultural data and digital services. During the Phase II review, the SCA will further investigate concerns that the data intended to be collected by Agronod could be reserved for the owners, or only made available on discriminatory terms, which could distort competition on the owner's respective core markets, or in downstream markets where the data might be useful. The case illustrates that the SCA will carefully assess the effect access to data might have on competition, especially in cases where companies collaborate to collect usable data which might not be shared with competitors, who cannot easily replicate the data collection themselves.



Peter Forsberg specialises in EU and competition law, with a particular focus on Swedish and international merger control, competition law investigations, disputes, compliance work and other aspects of competition law, as well as regulatory matters and investment control before competition authorities, sector agencies and courts.

Snellman Advoktbyrå AB

Kungsträdgårdsgatan 20, 2 tr
111 47 Stockholm
Sweden

Tel: +46 760 000 080

Email: peter.forsberg@snellman.com

LinkedIn: www.linkedin.com/in/peter-forsberg-73326a5



Philip Thorell advises clients in all types of competition law matters, such as merger control, compliance and investigations. He has acted as counsel to clients in some of the Swedish Competition Authority's largest investigations in recent years. He also has vast merger control experience, including handling merger notifications to the Swedish Competition Authority, the European Commission, and acting as lead counsel in transactions that have required merger control clearances in multiple jurisdictions.

Snellman Advoktbyrå AB

Kungsträdgårdsgatan 20, 2 tr
111 47 Stockholm
Sweden

Tel: +46 760 000 030

Email: philip.thorell@snellman.com

URL: www.snellman.com/people/philip-thorell

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