



Legal Update: Competition & Antitrust Department

December 2016

The Israeli Antitrust Authority Publishes the "Ultra Green" Mergers Procedure - Fast-Track Handling of Mergers that Do Not Give Rise to a Reasonable Concern of Significant Harm to Competition

Dear Clients and Friends,

We would like to update you with regard to the Israel Antitrust Authority's recent Notice (the "IAA", the "IAA's Notice", respectively), which sets out the procedure for reviewing mergers which clearly do not give rise to a reasonable concern of significant harm to competition ("**Ultra Green Mergers**").

A. The Background to The IAA's Notice

On May 8, 2016, the IAA published a press release regarding its examination of a procedure for reviewing Ultra Green Mergers (the "**Procedure**"), available at [this link](#) (English). In summary, the Procedure establishes the following:

- A merger which clearly does not raise a reasonable concern of harm to competition will be classified - in an internal classification process - as an Ultra Green Merger;
- The review of a merger classified as "Ultra Green" will be limited in scope, thus the decision regarding the merger will be rendered, principally, based on the submitted merger notices, and the information attached to them.
- Decisions regarding Ultra Green Mergers will be rendered in a significantly shorter time period than the 30 days provided in Section 20(B) of the Restrictive Trade Practices Law, 5748-1988.

According to the IAA's Notice, the Procedure is meant to achieve two main purposes: the one, to focus the IAA's resources; and the other, to lessen the burden on the notifying parties submitting the merger notices, and to decrease the waiting period to receive the decision of the General Director of the IAA (the "**General Director**"), in cases where it is clear that the General Director is not expected to oppose or to condition its consent to the merger.

The IAA's Notice also states, that since the publication of the Procedure (May 2016), 20 mergers were classified as "Ultra Green", and the average time of the IAA's handling of said mergers **was less than five days**. Therefore, the IAA calls on the public to make use of the "Ultra Green" fast track, which results in

shorter waiting periods for the General Director to render its decision regarding the merger.

B. The Requirements for the Application of the Ultra Green Merger Procedure

In order to promote the Procedure's purposes, certain rules were established for its exertion in the IAA's publication of May 8, 2016, as follows:

- Submission of **full** merger notices, in accordance with regulation 4(A) of the Restrictive Trade Practices Regulations (Registration, Publication and Reporting of Transactions), 5754-2004;
- If possible, the merger notices shall specify and expand on relevant information for the purpose of analyzing the effects of the transaction on competition. To the extent possible, the information should be objective and supported by objective data (market surveys, analyst reports, market share evaluations carried out by objective parties, etc.).
- The merger notice shall be signed by the **CEO of the submitting party**, and in the case where the submitting party has an internal legal advisor, the merger notice shall be signed by the **internal legal advisor** as well. In this regard, the signatories of the merger notices shall confirm - through a representation included in the merger notice form - that all of the information included in the cover letter to the merger notices, if there is such a letter, is accurate and true.
- In the IAA's recent Notice adds an additional requirement was added, according to which - along with the submission of the merger notices, the parties to the merger shall provide their holding structure, which will include **a full detailing of the direct holders of each party, and a detailing of the controlling entities of every direct holder of each party.**

We would be happy to answer any questions that you might have.

**Sincerely,
Competition & Antitrust Department
Fischer Behar Chen Well Orion & Co.**

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