

COVID 19: STATUS OF MAJOR ANTITRUST AGENCIES

Authority	Status	Substantive Response (i.e., relaxation or strengthening of rules)	Relevant links
United States (FTC and DOJ)	<ul style="list-style-type: none"> ◦ Working remotely, operational. ◦ Agencies have transitioned HSR filings to a temporary e-filing system. ◦ No early termination will be granted for new or existing filings so long as the emergency procedures are in effect. ◦ DOJ has requested that merging parties add an additional 30 days to timing agreements after the parties have complied with document requests. DOJ may revisit this timing as the COVID-19 pandemic evolves. ◦ The DOJ has also asked congress to extend the Phase I review period to 45 days in times of emergency (such as the current pandemic), and for the clock to be stopped on price-fixing and bid-rigging investigations. ◦ DOJ has indicated that all scheduled depositions are temporarily postponed and will be rescheduled using video conference. 	<ul style="list-style-type: none"> ◦ The FTC and DOJ plan to announce a joint effort to shorten reviews of cooperative efforts by companies that provide products or services which combat COVID-19 to no more than a week. 	<ul style="list-style-type: none"> ◦ https://www.ftc.gov/enforcement/premerger-notification-program/guidance-filing-parties ◦ https://www.justice.gov/opa/pr/justice-department-announces-antitrust-civil-process-changes-pendency-covid-19-event ◦ https://www.bloomberg.com/news/articles/2020-03-23/u-s-to-speed-antitrust-reviews-for-firms-teaming-up-on-virus ◦ https://www.politico.com/news/2020/03/21/doj-merger-reviews-coronavirus-140669
European Economic Area (EC)	<ul style="list-style-type: none"> ◦ Working remotely, operational. ◦ Notifications of mergers are encouraged to be delayed where possible. It is unclear to what extent the EC can or will enforce this recommendation but they have flexibility to do so. ◦ Ongoing complex cases are being delayed, but recently has resumed its Phase II investigation EssilorLuxottica's proposed acquisition of Dutch eyewear retailer GrandVision, suggest 	<ul style="list-style-type: none"> ◦ The European Competition Network (ECN) on March 23 published a joint statement on the application of competition law during the COVID-19 crisis, stating it will not "actively intervene" in necessary company cooperation related to combatting COVID19 ◦ If companies have doubts about the compatibility of such cooperation initiatives with EU/EEA competition law, they can reach out to the European Commission, the EFTA Surveillance Authority or national competition authorities for informal guidance, the ECN added. 	<ul style="list-style-type: none"> ◦ https://ec.europa.eu/competition/mergers/information_en.html ◦ https://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=1170655&siteid=190&rdir=1 ◦ https://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=1173134&siteid=190&rdir=1 ◦ https://ec.europa.eu/competition/ecn/202003_joint-statement_ecn_corona-crisis.pdf

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UK (CMA and CAT)	<ul style="list-style-type: none"> ◦ CMA: <ul style="list-style-type: none"> ◦ Working remotely, operational. ◦ CMA is committed to maintaining all applicable deadlines for ongoing cases, but has stated "at the same time, it will continue to monitor timetables including, as permitted, extending statutory timeframes where necessary." ◦ On March 24, the CMA indicated that companies with yet-to-be-closed mergers are being told to hold off on formally filing notifications of their deals by the UK's competition regulator in light of the Covid-19 crisis ◦ New notifications are delayed (but no formal policy) ◦ The CMA has launched a taskforce to tackle negative impacts within its remit of the COVID-19 pandemic. Will scrutinize market developments to identify harmful sales and pricing practices as they emerge. ◦ CAT: <ul style="list-style-type: none"> ◦ Operational, but delayed. ◦ Antitrust cases at the Competition Appeal Tribunal may be "disrupted or lengthened" due to the COVID-19 outbreak, with any hearings listed by the court subject to confirmation nearer to the time. The CAT said it will consider holding procedural hearings by remote video and audio and said filings to the court should be made electronically. It remains open for now and told parties it was not granting a general extension to proceedings but would consider specific requests, which should be made as early as possible. 	<ul style="list-style-type: none"> ◦ The CMA issued an open letter to the pharmaceutical and food and drink industries warning firms that they should not capitalize on the current situation by charging unjustifiably high prices for essential goods or making misleading claims around their efficacy. This suggests scrutiny/enforcement action may be heightened for these sectors. ◦ Note also ECN letter above. 	<ul style="list-style-type: none"> ◦ https://www.gov.uk/government/news/covid-19-cma-working-arrangements ◦ COVID-19: CMA open letter to pharmaceutical and food and drink industries. ◦ https://www.gov.uk/government/news/cma-launches-covid-19-taskforce?utm_source=99a4cddc-813a-43ed-989c-b5072e864fdc&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate ◦ https://www.catribunal.org.uk/about/announcements/practice-direction-relating-covid-19-filing-and-hearing-arrangements-fri
Germany (FCO)	<ul style="list-style-type: none"> ◦ Working remotely, operational. ◦ No delays to statutory deadlines. ◦ It will be decided on a case-by-case basis whether hearings of the federal public procurement tribunals are to take place. 	<ul style="list-style-type: none"> ◦ The German government and FCO are ready to temporarily adapt some competition restrictions to avoid potential food shortages, without changing any laws. ◦ Note also ECN letter above. 	<ul style="list-style-type: none"> ◦ https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/AktuelleMeldungen/2020/17_03_2020_Communication_Bundeskartellamt.html?nn=4136442 ◦ https://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=1172429&siteid=190&rdir=1

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France (ADLC)	<ul style="list-style-type: none"> Working remotely, operational. The FCA has asked companies to delay their non-urgent merger plans as it "won't be able to guarantee the usual deadlines" due to the measures taken to deal with the coronavirus pandemic. "The mergers already notified and the ones to be notified in the coming weeks may see their usual processing time delayed." 	N/A (except as above regarding the ECN letter)	<ul style="list-style-type: none"> https://www.autoritedelaconcurrence.fr/en/article/adaptation-merger-control-procedures-due-coronavirus-covid-19
Austria (FCA)	<ul style="list-style-type: none"> Working remotely, operational. No delays to statutory deadlines announced but delays likely in practice. 	N/A (except as above regarding the ECN letter)	<ul style="list-style-type: none"> https://www.bwb.gv.at/en/news/detail/news/further_measures_by_the_austrian_federal_competition_authority/
Italy (AGCM)	<ul style="list-style-type: none"> Working remotely, operational. The Italian Competition Authority has suspended all deadlines (including for mergers) from 23 February until 15 April; the clock will restart on Monday, 16 April. 	N/A (except as above regarding the ECN letter)	<ul style="list-style-type: none"> https://en.agcm.it/en/media/press-releases/2020/3/ICA-Coronavirus-the-Authority-intervenes-in-the-sale-of-sanitizing-products-and-masks
Spain (CNMC)	<ul style="list-style-type: none"> Working remotely, operational. The government has legislated for suspensions of merger control deadlines, but "if the interested party requests it, it may be agreed that a certain period is not suspended and adopt the appropriate measures in order to avoid serious damage to the rights and legitimate interests of the administered companies." 	N/A (except as above regarding the ECN letter)	<ul style="list-style-type: none"> https://www.cnmc.es/en/nod/e/379630
Switzerland (WEKO)	<ul style="list-style-type: none"> Working remotely, operational. WEKO is not planning to ask merging parties to delay filing new notifications but it does expect to delays to non-merger control proceedings. 	N/A	<ul style="list-style-type: none"> https://app.parr-global.com/login?onSuccess=https%3A%2F%2Fapp.parr-global.com%2Fintelligence%2Fview%2Fprime-3006243%3Futm_source%3DNotifications%26utm_medium%3DEmail%26utm_campaign%3DAIAlert%26utm_term%3D5e303be35fed04002c8443d8
South Korea (KFTC)	<ul style="list-style-type: none"> Fully operational. No delays to merger filings announced. Only announced activity regarding coronavirus concerns KFTC investigation into bundling of face masks. 	N/A	<ul style="list-style-type: none"> https://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=1167315&siteid=202&rdir=1

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China (SAMR)	<ul style="list-style-type: none"> Fully operational. In fact, SAMR has stepped up its activity on both investigation and merger control fronts. SAMR has only halted in-person contact with merging parties – applications and correspondence must be electronic or by post. This has led to minor delays but mergers are being processed much as usual. 	N/A	<ul style="list-style-type: none"> https://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=1161347&siteid=202&rdir=1 https://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=1164330&siteid=202&rdir=1 (in Chinese – need to google translate) https://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=1168575&siteid=202&rdir=1
India (CCI)	<ul style="list-style-type: none"> Operations suspended until Mar. 31 - all merger filings, pre-filing consultations and antitrust complaints will be suspended until the same date. 	N/A	<ul style="list-style-type: none"> https://www.cci.gov.in/sites/default/files/whats_newdocument/scan1.pdf
Indonesia (KPPU)	<ul style="list-style-type: none"> Operations suspended until April 2, and this suspension may be extended. 	<ul style="list-style-type: none"> The regulator also warned that strict sanctions will be imposed on companies that take advantage of the situation by hoarding food, medical equipment and other essential items. 	<ul style="list-style-type: none"> https://www.mlex.com/GlobalAntitrust/DetailView.aspx?cid=1173058&siteid=202&rdir=1
Philippines (PCC)	<ul style="list-style-type: none"> Operations suspended until April 14. 	N/A	<ul style="list-style-type: none"> https://phcc.gov.ph/press-releases/public-advisory-interruption-reglementary-periods-filing-pleadings-payment-fines-covid19/