

Mergers: Pre-Notification Discussions

- 1.1 This note provides useful information on pre-notification discussions between the Competition and Consumer Protection Commission ("Commission") and the parties to a proposed merger.

Contact persons

- 1.2 Parties may request pre-notification discussions by contacting the Director of the Commission Mergers Division at +353 (0)1 402 5500 or mergers@ccpc.ie.

Purpose

- 1.3 The Commission welcomes the opportunity to have pre-notification discussions with parties who have expressed a good faith intention to proceed with a transaction. This may take place either in the form of a meeting or a teleconference call.
- 1.4 The purpose of pre-notification discussions is to:
- (a) assist parties to a proposed merger in the preparation of the Merger Notification Form; and,
 - (b) give such parties the opportunity to provide an explanation to the Commission's staff about the nature of competition in the relevant industry(ies) or sector(s) concerned .
- 1.5 Where parties opt not to fill in parts of the Merger Notification Form without having contacted the Commission first and gotten approval to do so there is a possibility that the Commission may regard that Notification as invalid pursuant to section 18(12) of the Competition Act, 2002 as amended.

Documentation requested in advance

- 1.6 In order to facilitate a meaningful discussion with the Commission, a written submission from the parties or their representatives briefly describing the proposed transaction, the market(s) involved and the potential effects of the

proposed merger, together with a list of attendees, should be sent to the Mergers Division. This should arrive at least 2 working days before the first meeting/telephone call. Drafts of any relevant agreements would also be helpful.

Content

- 1.7 In the course of pre-notification discussions, Commission staff will endeavour to point out any immediately evident potential competition issues arising from the proposed merger and areas where further information would be useful for the Commission's analysis. Please note however that further competition concerns may arise in the course of the Commission's formal merger investigation. The Commission may also waive completion of parts of the Merger Notification Form. However, no indication of whether the merger is likely to require a full (Phase 2) investigation will be provided during the course of pre-notification discussions.
- 1.8 Parties should note that any comments made by Commission staff during the course of pre-notification discussions can only be preliminary and non-binding, in light of the fact that the Commission does not have all the information to hand. For example, third parties have not had a chance to present their views and no investigation has yet been conducted.

Attendance at pre-notification meetings

- 1.9 If possible, at least one director or employee of the undertakings concerned should attend the pre-notification meeting. Although both parties may attend the same meeting, this is not a desirable practice. In particular, in a horizontal merger situation that involves competitors, the Commission would prefer to meet the parties separately, and indeed, parties themselves may find the process more productive if they schedule separate meetings.

Non-binding and confidential nature

- 1.10 It is important to note that the Commission will not be bound by any comments made by its staff in the course of pre-notification discussions. Any views

expressed reflect the preliminary views of staff based on the information provided, and not those of the Commission.

- 1.11 Pre-notification discussions take place in strict confidentiality. The Commission considers both the fact that pre-notification discussions have taken place and any information provided to the Commission by the parties to be highly confidential. Pre-notification discussions are held in strict confidence. The discussions are a voluntary part of the process and remain without prejudice to the handling and investigation of the case following formal notification. Similarly, any comments made by Commission staff should be treated by the parties and their representatives as strictly confidential.

31 October 2014