

Global Competition Measures in Response to COVID-19

September 2020



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Executive Summary

Lex Mundi, in conjunction with members of the [Lex Mundi Antitrust and Competition Group](#), has developed this updated global resource on competition authority and enforcement updates in the wake of COVID-19, with insights from over 60 jurisdictions around the world. Information covered in the report includes the impact of the new normal business environment on merger review timelines, antitrust investigations/litigation, enforcement priorities, competitor collaborations, price gouging, misleading advertising, as well as additional government (federal, state, or provincial) initiatives applicable.

As enforcement regimes have adapted in a time of crisis, companies must remain aware of competition-related risks when rolling out new strategies or considering a restructuring or reorganization of their business.

Additional bespoke Lex Mundi resources for companies include:

- Equisphere – Lex Mundi’s legal services delivery model that allows a client to build their ideal, bespoke international law firm consisting of experts in the exact locations required and with services tailored to the business objectives of each cross border matter;
- Horizon Scanning – a unique methodology to help General Counsel identify global blind spots and to triage issues and priorities for key company policies and programs;
- AI-augmented contract review and revision support; and
- Government Support Measures Report (https://www.lexmundi.com/lexmundi/COVID-19_Government_Support_Measures_Report.asp) – select from over 100 jurisdictions to view financial aid measures that have been put into place around the world.

To learn more about our Antitrust and Competition and Equisphere legal resources, contact Lauren Smith, lsmith@lexmundi.com.

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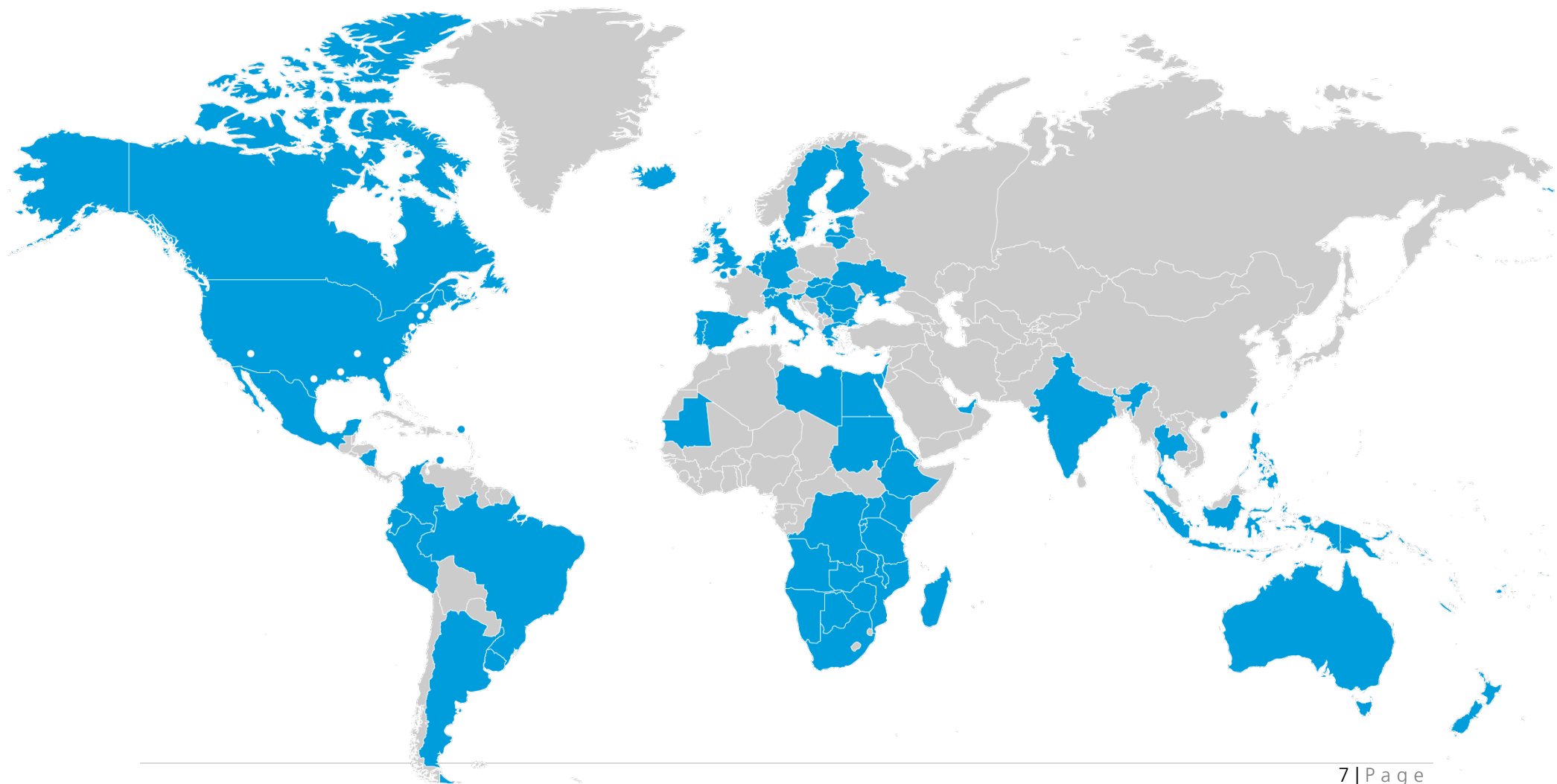
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Lex Mundi Global Coverage

Lex Mundi has developed this global resource on COVID-19 related antitrust and enforcement updates from over 60 jurisdictions around the world.



COMESA (Common Market for East and Southern Africa)

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Competition Authority: The COMESA Competition Commission (“**CCC**”) (<https://www.comesacompetition.org/>)

Merger Review

New Filings Accepted?

Yes. A press release issued by the COMESA Competition Commission (“**CCC**”) on March 31, 2020 sets out interim processes for merger review under the *COMESA Competition Regulations* (“**Regulations**”) in light of COVID-19 provides that merger notifications are required to be submitted electronically and parties are not expected to submit hard copies of their merger notification to the **CCC** within the specified seven days under the *COMESA Merger Assessment Guidelines*. Hard copies may be submitted at a later date when possible.

In the ordinary course, merging parties are required to notify the **CCC** within 30 days of their decision to merge. The **CCC** notes that in light of the restrictions on movement and the lockdown in most countries, some merging parties may not be able to prepare a complete merger notification within 30 days from the date of their decision to merge. In the circumstances, merging parties will not be penalized for failure to submit a complete notification to the **CCC** within 30 days of the parties’ decision to merge, provided that they notify the **CCC** of the merger. This is typically done by email, disclosing the merging parties’ names and limited information about the transaction.

Waiting Period Delays?

Merger reviews may not be completed within the 120 day merger review period as provided for under Article 25(1) of the *Regulations*. As such, the 120 day merger review period may be extended in accordance with the Regulations. Notably, however, COMESA is not a suspensory regime.

Investigations/Litigation

Filings

No official announcements have been made at this stage.

Delays/Other Considerations

It is expected that **CCC** officials will be working but that there may be delays in light of COVID-19.

Communications With the Regulator

How are filings made/meetings handled?

Filings are being made electronically.

The **CCC** has suspended onsite investigations and face-to-face meetings with regard to merger investigations. However, consultations and meetings shall continue to be held through teleconferencing facilities until the situation normalizes.

Other Antitrust Issues

Competitor Collaborations

No official announcements have been made at this stage.

Price Gouging

No official announcements have been made at this stage.

Misleading Advertising

On March 17, 2020 the **CCC** issued a press release warning companies and individuals selling products with the claim that they can 'treat' or 'prevent' COVID-19, without medical evidence, contravenes article 27 of the **Regulations** and attracts a penalty of up to USD 300,000.

Enforcement Priorities

No official announcements have been made at this stage.

Other Considerations

N/A

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Competition Authority: The Egyptian Competition Authority (“**ECA**”) (<http://www.eca.org.eg/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

N/A. There are currently no merger reviews under Egyptian Law as the **ECA** requires a post-merger notification.

Investigations/Litigation

Filings

Yes, any complaints with regard to allegations of violations of the provisions set forth under the *Egyptian Competition Protection Law No. 3* for the Year 2005 (the “**CP Law**”) may be submitted through phone calls/emails to the **ECA** during the COVID-19 pandemic. In addition, paper filings are also accepted at the **ECA**'s premises for the time being.

Delays/Other Considerations

The **ECA** will review and evaluate all the submitted complaints, though it has issued a statement informing the Egyptian public that there will be delays in the time taken to render a decision. The **ECA** further stipulated that such delay would vary on a case-by-case basis.

Communications With the Regulator

How are filings made/meetings handled?

A prior notice must be given to the **ECA** before submitting any filings and an appointment must be granted in order to make the filing. It should be noted that the **ECA** now operates at full capacity (from 10:00 am to 5:00 pm) in line with the government's policy in easing the restrictions imposed during the COVID-19 pandemic. Furthermore, in addition to the routine filing documentation, the following must be provided to the **ECA**:

- An explanatory memorandum with all the necessary details regarding the transaction (if applicable); and
- A CD or flash drive with electronic copies of all the documentation submitted.

Once the documentation has been submitted, the **ECA** typically reverts to the applicant in case of follow-ups.

It should be noted that the **ECA** currently authorizes the electronic submission of the filing, however prior notice must be given to the **ECA**.

Other Antitrust Issues

Competitor Collaborations

The **ECA** recently released a statement with respect to competitor collaborations. In the statement, the **ECA** acknowledged that certain collaborations between competitors may be necessary to ensure that necessary products (such as medical equipment) are provided to the Egyptian public.

The **ECA** currently aims to facilitate the collaboration between competitors to reach economic effectiveness (in which products are produced with lower costs of production in good quality). In this regard, the **ECA** has launched an initiative, through which it provides free and informal advice to firms and companies seeking to collaborate with competitors to evaluate whether their collaboration would be considered to be executed in good faith, and whether it would benefit of the Egyptian public and whether it violates the provisions set forth under the **CP Law**.

Price Gouging

Under the **CP Law**, the Egyptian Council of Ministers is authorized, after consulting the **ECA**, to set the prices of essential goods and product for a certain period of time. Nevertheless, the Council of Ministers has not issued any statements in this regard.

It should be noted that the Egyptian government has issued general statements warning vendors and traders against any price manipulation tactics; however, no decrees have been issued in this respect.

Furthermore, we would like to note that in light of the COVID-19 pandemic and to support the industrial sector, the Egyptian government decreased the price of electricity and the price of gas for factories operating in the industrial sector.

Misleading Advertising

The Egyptian government has made general statements outlying the dangers of false information and warning the public against making misleading statements during the COVID-19 pandemic.

Nonetheless, while there have been no decrees issued in this respect during the COVID-19 pandemic, *Law No. 95 for the Year 1945* regulating all matters with respect of the supply of goods and products in Egypt, stipulates that any person found guilty of producing false and misleading advertisements will be penalized by imprisonment for a period not less than one year and not exceeding five years. It is also stipulated that said person will be subject to a fine, the amount of which is not less that EGP 10,000 and not exceeding EGP 100,000.

Enforcement Priorities

The **ECA** has released several statements indicating its keenness to fulfill its obligations in ensuring that the competitive practices in Egypt are respected during the COVID-19 pandemic.

While the **ECA** has not made statements regarding enforcement priorities, it appears that the **ECA** is keen on aiding companies during these challenges times and encouraging collaboration between competitors to ensure that all the necessary goods are provided to the Egyptian public.

Other Considerations

N/A

Ethiopia

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Competition Authority: The Trade Competition and Consumers Protection Authority (“**Authority**”) (Link presently unavailable)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

On 24 March 2020, the Council of Ministers’ implemented a “work from home” policy for all federal government employees. As such, the **Authority**’s regular activities and timeline for reviewing a merger was interrupted.

The **Authority** subsequently resumed in mid-April with the provision of its temporarily suspended activities. However, it is noted that the **Authority** is still working with reduced human resource capacity because of COVID-19 and, as such, unanticipated waiting period delays may occur in the merger process.

Investigations/Litigation

Filings

Yes. Investigations are still undergoing and the **Authority** is accepting filings.

Delays/Other Considerations

Due to the government’s decision to partially close federal courts on March 18, 2020, the tribunal is giving extended court appointment dates for cases brought before it. Thus, there are anticipated delays on in-person hearings and witness testimonies.

Communications With the Regulator

How are filings made/meetings handled?

Merger Notification/filings still continue to be made to the **Authority** in person, by fax, post or mail. The **Authority** accepts filings made in-person or through electronic means.

Other Antitrust Issues

Competitor Collaborations

The **Authority** has not put in place any special rule or system regarding competitor collaborations. However, efforts to collaboratively produce masks were officially recognized by Ethiopian officials.

Moreover, the Council of Ministers issued a *State of Emergency Regulation* ("**SoE Regulation**") on April 11, 2020. It is stipulated under the **SoE Regulation** that any manufacturer or service-provider is required to comply with an order of the empowered authority under the **SoE Regulation** to provide manufacture products, increase manufactured products or manufacture new product-line. Hence, the **Authority** or any other entity may pursuant to the **SoE Regulation** put in place further guidance on competitor collaborations.

Price Gouging

The **Authority** had set up three teams to investigate price escalation following COVID-19: (i) Factory-based team; (ii). Vegetables and fruits team; and (iii) Cereals used for household consumption.

Pursuant to the **Authority**'s investigation, the regulatory body, i.e., Ministry of Trade ("**Ministry**"), had reportedly raided businesses suspected of price escalation, hoarding and other related price gouging activities. Commodities such as cereals, pepper, lemon, onion, sanitizer and medical mask are amongst the range of products the Ministry reportedly found to have their prices unfairly escalated.

In addition to the actions taken by the **Ministry**, the **SoE Regulation** also stipulates that manufacturers or service providers may be obliged to sell products to government, consumers or cooperative associations as per a price determined by the government.

Africa and the Middle East

Misleading Advertising

False or misleading commercial advertisement is prohibited under the *Trade Competition and Consumers Protection Proclamation No. 813/2016*.

Spreading information that creates societal chaos and psychological tension has been included in the list of prohibited activities under the **SoE Regulation**.

Enforcement Priorities

While no specific and special priority order has been notified by the **Authority** or even put in place, the **Authority** has been strongly looking into anti-competitive agreements and concerted practices with a view to curbing price escalation and price gouging.

Other Considerations

N/A

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Competition Authority:

- The Israel Competition Authority (“ICA”) <https://www.gov.il/en/departments/competition>
- The Competition Tribunal (Link N/A)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

Generally, no. Currently, the **ICA**'s activity returned to normal (with the exception of physical meetings, which are limited). However, delays may indeed be possible in light of the current situation in Israel. The bill that was proposed according to which deadlines for certain governmental decisions – including merger approvals – shall be automatically extended for an additional period of 90 days from their respective deadline, was never enacted.

The **ICA** published (as part of a statement published on March 17, 2020) that in light of the COVID-19 crisis, it would allow parties to a merger (whether they have already filed merger notifications with the **ICA** or intend to do so) to approach the Director General of the **ICA** in order to discuss and find solutions for difficulties that may arise during the interim period as a result of the unusual current circumstances, until a decision is granted by the Director General.

Investigations/Litigation

Filings

Due to the application of the *Court Regulations* and the Execution Offices (Special Emergency Procedures) all regular court hearings from March 15, 2020 until May 10, 2020, which were not included in the urgent matters described in the Director of the Court of Justice, were postponed. All deadlines set in legislation or court decisions to submit pleadings to the court were postponed accordingly (in exclusion of filings deadlines which the court set a specific date for submission, which might be extended through a motion for extension). This order was not renewed since May 2020 and filings and hearings are now under regular timelines.

Delays/Other Considerations

The abovementioned emergency regulations delayed most of the court hearings and filings, including the Tribunal hearings, but currently proceedings returned to regular pace. Also in this regard, in order to make up for parts of the delays during March-May as aforesaid, the annual summer court recess was shortened by the Minister of Justice by 20 days, from August 11 to September 6, 2020.

Communications With the Regulator

How are filings made/meetings handled?

Filings to the **ICA** are already made electronically, via email irrespective of the current situation. A confirmation of receipt by the **ICA** is also sent electronically. No change was affected in this respect. In-person meetings and hearings are currently conducted by way of video conferences or other means of remote communication, as the **ICA** limits the number and scope of physical meetings.

Other Antitrust Issues

Competitor Collaborations

On March 17, 2020, the **ICA** published a statement whereby it clarified that under the current unique circumstances, collaborations among competitors (such as joint ventures), that are meant to ensure the continuity of their ongoing proper operations affected by the COVID-19 crisis, may generally benefit from the *Block Exemption for Joint Ventures*, subject to fully meeting its conditions. The **ICA** further clarified that during such an emergency situation; there would be more cases that justify such collaborations. In addition, it was noted that collaborations, even if are conducted between competitors, which are necessary to enable businesses to cope with hardship stemming from the COVID-19 crisis, would not be regarded as collaborations designed to reduce or to prevent competition, subject to their compliance with all other conditions of the Block Exemption for Joint Ventures.

Price Gouging

No new or specific laws or regulations were enacted.

The Ministry of Economy and Industry (“**MEI**”) announced that it is enforcing price gouging of products (mainly basic foods such as milk and eggs) whose prices are regulated by law as essential consumption goods. In addition, certain voluntary arrangements were agreed to between the **MEI** and certain retail chains regarding maximum prices of masks and sanitation products (Alco-Gel). See also below regarding the **ICA** publication (under Enforcement priorities).

Misleading Advertising

Misleading advertising is mainly dealt with by the Consumer Protection and Fair Trade Authority (“**CPFTA**”). The **CPFTA** published that it initiated enforcement measures and imposed fines on certain businesses that falsely advertised products as having medicinal qualities of treating or preventing the COVID-19 infection.

Enforcement Priorities

On April 5, 2020, the **ICA** published a statement where it emphasized that it would closely monitor the food and drug stores/toiletries sectors during the COVID-19 crisis, given the sensitivity and importance of these industries to consumers. It stated it would ensure that there would be no exploitation of the consumers’ dependency in order to harm competition or the public. It was also stated that the Director General would not hesitate to use any enforcement measures against such anti-competitive behavior, even at this time.

Other Considerations

None.

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Competition Authority: The Competition Authority of Kenya (“**CAK**”) (<https://www.cak.go.ke/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No official delays. However, officials of the **CAK** are working off site.

Investigations/Litigation

Filings

The **CAK** will continue to investigate complaints of competition law infringements as well as consumer protection infringements.

Delays/Other Considerations

Investigations involving face-to-face interviews with immunity/leniency applicants, meetings with complainants/respondents, and plea or other settlement negotiations may continue, although meetings with external parties are being conducted remotely via video or telephone conference where necessary/possible.

It is anticipated that competition law and consumer protection infringements related to the COVID-19 pandemic will be prioritized over other investigations at this stage.

Communications With the Regulator

How are filings made/meetings handled?

The **CAK** has issued an official statement indicating that with effect from September 1, 2020, the **CAK** will no longer accept physical applications relating to its technical processes, including merger filings, exemption applications, abuse of power and consumer complaints – these are all required to be submitted electronically.

As indicated above, meetings with external parties are expected to take place remotely via video or telephone conference where necessary/possible.

Other Antitrust Issues

Competitor Collaborations

No official announcements have been made at this stage. However, on March 20, 2020, the **CAK** issued an order directing, inter alia, that distributors of the certain essential commodities (maize flour, wheat flour, edible oils, rice, sanitizers and toilet papers), who also operate their own retail outlets to avail these essential commodities, and other commodities they distribute, to other retail outlets on non-discriminatory terms.

Price Gouging

On March 13, 2020, the **CAK** issued a directive that suppliers and retailers who engage in unconscionable conduct (including increasing prices and hoarding with the intention of subsequently increasing prices of consumer goods) would attract a penalty of up to 10% of the respective turnover of the suppliers and retailers in question pursuant to section 36 (d) of the *Competition Act, 12 of 2010* (“**Act**”).

The directive was issued after it had come to the attention of the **CAK** that some suppliers and retailers were increasing the prices of and/or hoarding with the intention of subsequently increasing prices of consumer goods. In this respect, there is an ongoing investigation by the **CAK** to monitor pricing of ‘essential goods’ related to COVID-19.

On March 16, 2020, the **CAK** issued a press release noting that it had issued a remedial order to Cleanshelf Supermarkets (“**Cleanshelf**”) after investigations determined that the retailer had ‘unconscionably’ adjusted prices of Tropikal brand hand sanitizers (500ml) in contravention of the **Act**. The **CAK** found that “*the retailer therefore exploited its relative strength as a retailer*” to the detriment of consumers whose bargaining position had been diminished following the announcement of the existence of COVID-19 in Kenya. The remedial order required **Cleanshelf** to contact and refund all consumers who purchased the 960 Tropikal brand hand sanitizers sold above the usual selling price.

Africa and the Middle East

Misleading Advertising

No official announcements have been made at this stage.

Enforcement Priorities

No official announcements have been made at this stage.

Other Considerations

On July 20, 2020, the **CAK** issued a press release on its ongoing investigation into abuse of power incidents which led to the determination that four retailers had delayed payments to their local suppliers for a period exceeding 90 days. Three out of the four retailers, upon engagement with the **CAK** presented payment plans to honor their obligations, which were confirmed through compliance checks.

The **CAK** issued *Prudential and Reporting Orders* to retailer Tusker Mattresses Limited (better known as “**Tuskys**”) requiring it to submit records revealing the full extent of the debt owed, financial statements and records etc. Further, **Tuskys** submitted a debt settlement plan and held a number of meetings with the **CAK** to discuss the progress of the debt settlement plan. **Tuskys** has negotiated for moratoriums and extensions of its facilities with its lenders, engaging with suppliers and exploring other funding options. The **CAK** is amenable to the debt settlement plan that will see suppliers’ outstanding invoices progressively settled over a period of four months. The **CAK** will conduct weekly compliance checks to ensure adherence to the debt settlement plan. The **CAK** continues to encourage suppliers who may be aggrieved and have not presented their matters to the **CAK** to do so, as it continues to interrogate the financial statements and management accounts availed by **Tuskys**.

Mauritius

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Competition Authority: The Competition Commission of Mauritius (“**CCM**”) (<https://competitioncommission.mu>)

Merger Review

New Filings Accepted?

There are no requirements in Mauritius for merger notification. However, the **CCM** encourages merging parties to notify the **CCM** before they merge to obtain guidance. Should the **CCM** become aware of a merger after it has been implemented, it may open an investigation into the merger.

It appears that new applications for merger guidance can still be submitted electronically.

Waiting Period Delays?

The office of the **CCM** is functioning with a reduced staff, however no unusual delays are expected.

Investigations/Litigation

Filings

Filings can be made through email to info@competitioncommission.mu and through post by dispatching the required documents addressed to the Executive Director, Competition Commission.

Delays/Other Considerations

With the national lockdown imposed in respect of COVID-19 now lifted, no unusual delays are expected.

Communications With the Regulator

How are filings made/meetings handled?

All channels of communications are now open. They can be made electronically – either to the contact person or by email to info@competitioncommission.mu, and the **CCM** can also be reached at (+230) 211-2005. Any filings, if made by post, must be addressed to the Executive Director, Competition Commission.

Other Antitrust Issues

Competitor Collaborations

The Executive Director of the **CCM** has initiated a temporary guidance to business on proposed COVID-19-related collaboration dated June 29, 2020 under which businesses will, upon request made to the Executive Director, be provided with informal and non-binding guidance on their proposed COVID-19-related collaborations.

Additionally, through a *Communiqué* dated April 9, 2020 (the “*Communiqué*”), the **CCM** emphasized that it will not tolerate commercial conducts on part of dominant suppliers who seek to exploit the crisis to the detriment of consumers.

The **CCM** stated that they would not unduly constrain necessary and critical cooperation between enterprises which are in consumers and public interest and which does not go further or last longer than what is necessary.

Price Gouging

The **CCM**, in the *Communiqué*, has tried to highlight certain ways that suppliers can adopt to avoid price gouging. The **CCM** emphasized that the *Mauritian Competition Act 2007* does not prohibit suppliers to set maximum prices for their products “with a view to limit unjustified price increases at retail level”. Further, the law does not prohibit suppliers from recommending retail prices and affixing recommended retail prices on their products as long as the words “*recommend price*” appear on the label.

Consumers who feel aggrieved by high prices can lodge complaints at the Consumer Protection Unit which is a department within the Ministry of Industry, Commerce and Consumer Protection.

Misleading Advertising

Any anticompetitive practices seeking to exclude competitors or exploit consumers will be monitored and sanctions will be taken against them.

Enforcement Priorities

The **CCM** has not indicated which matters will take enforcement priorities, although it does seem that anticompetitive practices which seek to exploit consumers will be urgently dealt with.

Other Considerations

The office of the **CCM** is open for all complaints and queries made in person or telephonically. Any complaints and queries can also be submitted electronically.

CCM recently amended its guidelines in respect of the mergers to differentiate between various levels of control. An increase in the degree of control may now create a new merger situation.

South Africa

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Competition Authority:

- The Competition Commission (“**Commission**”) (<http://www.compcom.co.za/>)
- The Competition Tribunal (“**Tribunal**”) (<https://www.comptrib.co.za/>)
- The Competition Appeal Court (<https://www.comptrib.co.za/>)

Merger Review

New Filings Accepted?

Following the declaration of a state of national disaster in March 2020 and South Africa being placed under hard lockdown, the **Commission** issued communication discouraging the filing of all new mergers, other than those involving “*failing firms*” or “*firms in distress*”. However, almost immediately thereafter, the **Commission** notified stakeholders that its staff were working remotely, and that all new merger filings would be accepted. This remains the position to date.

Waiting Period Delays?

Whereas initially, the **Commission** advised stakeholders to expect that the **Commission** would utilize its full investigation period when reviewing mergers, with lockdown restrictions being eased and the business community (gradually) returning to work, there are no longer extended periods of delay in receiving merger approval. However, the **Commission** is still prioritizing the review of firms in financial distress/failing firms.

Investigations/Litigation

Filings

New complaints are being accepted. The **Commission** is encouraging the filing of all complaints and recently introduced a SMS line via which complaints may be lodged. Although still working remotely, the **Commission's** investigative staff continue to investigate merger notifications and allegations of anti-competitive practices, with COVID-19 no longer being as significant a barrier (as presented earlier this year).

Whereas initially, the **Tribunal** postponed sine die the hearing of all complex contested mergers and restrictive practice matters, since July 2020, the **Tribunal** has again placed these matters on the roll. The **Tribunal** has however transitioned to an online hearing platform.

At Competition Appeal Court level, remote hearings are conducted on Microsoft Teams. Most recently, the Constitutional Court, the apex court of the land, also began hearing constitutional matters on an online platform.

Delays/Other Considerations

In a [press release](#) issued on March 24, 2020, the **Commission** noted that complaints relating to abuses of dominance or exploitative practices relating to COVID-19 will be handled by a dedicated team comprising members of the **Commission** and the National Consumer Commission. This continues to be the case currently.

On April 3, 2020, the *Competition Tribunal Rules ("Rules")* regulating complaint referrals to the **Tribunal** for alleged COVID-19 excessive pricing contraventions ("**Rules**") were gazetted. The **Rules** detail the procedural steps applicable when an excessive pricing complaint is referred to the **Tribunal**, and these **Rules** will continue to apply for as long as the country is in a declared state of national disaster. The **Rules** include expedited time periods for the treatment of excessive pricing complaints. They also empower the Tribunal to remedy an excessive pricing contravention by imposing a pricing order on the respondent.

Communications With the Regulator

How are filings made/meetings handled?

In a [press release](#) issued on March 18, 2020, the **Commission** cancelled all external meetings until further notice, postponed indefinitely all workshops and engagements relating to market inquiries and draft guideline submissions and noted that critical interactions will be arranged electronically via teleconference or videoconference. It was noted that filings can still be made via email or alternatively by sharing the necessary documents with the **Commission** via transfer portals.

The **Tribunal** has also suspended all face-to-face meetings and hearings, with all meetings and hearings taking place via teleconference or videoconference. This continues to be the position to date.

Other Antitrust Issues

Competitor Collaborations

In response to COVID-19, the Minister of Trade, Industry and Competition (“**Minister**”) has issued several regulations (“**Regulations**”) exempting specific categories of agreements and practices that may be entered into between competitors in the banking, healthcare, and retail property sectors from the application of sections 4 and 5 of the **Act** (dealing with horizontal and vertical prohibited practices), in accordance with the criteria set out in the **Regulations**.

Price Gouging

On March 19, 2020, pursuant to section 8 (abuse of dominance prohibited) of the **Act** and sections 40 (unconscionable conduct) and 48 (unfair, unreasonable or unjust contract terms) of the *Consumer Protection Act, No. 68 of 2008*, the Minister issued regulations specifically prohibiting the excessive pricing of goods such as toilet paper, hand sanitizer, disinfectants, facial masks, rice, maize meal, pasta, long life milk and canned and frozen vegetables (the **specified goods**), among others, for the duration of the national disaster. In this regard, the **Act** prohibits a dominant firm from charging excessive prices for goods to the detriment of consumers. In terms of the **Act** read together with the **Regulations**, for the duration of the national disaster, an increase in the net margin of the specified goods, which is above the average margin or mark-up over a three-month period preceding March 1, 2020, will constitute a *prima facie* case of excessive pricing.

In a [press release](#) issued on March 20, 2020, the **Commission** warned against excessive pricing of the specified goods and emphasized that the **Act** prohibits various acts of excessive pricing and collusive behavior by suppliers and retailers which artificially inflate prices and exploit consumers.

In a [press release](#) issued on March 31, 2020, the **Commission** noted that it had received 559 complaints since COVID-19 was declared a national disaster in South Africa. By July 2020, the **Commission** reported receiving in excess of 1,600 complaints.

To date, 35 firms have entered into settlement agreements with the Commission for alleged COVID-19 excessive pricing, and 2 others have been prosecuted and found guilty for engaging in the conduct.

Misleading Advertising

No official announcements have been made at this stage.

Africa and the Middle East

Enforcement Priorities

The **Commission** and the Tribunal continue to prioritize COVID-19 matters (in particular, complaints that relate to the excessive pricing of the specified goods).

Other Considerations

There may be additional **Regulations** and/or block exemptions published. Further, those that have been published may be expanded upon.

Tanzania

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Competition Authority: The Tanzanian Fair Competition Commission ("**FCC**") (<https://www.competition.or.tz/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No official announcements have been made at this stage regarding delays, the **FCC** is functioning as usual.

Investigations/Litigation

Filings

No official announcements have been made at this stage.

Africa and the Middle East

Delays/Other Considerations

No official announcements have been made at this stage.

Communications With the Regulator

How are filings made/meetings handled?

The **FCC** is functioning as usual. As such, hard copy merger notifications are still required to be submitted to the **FCC**.

Other Antitrust Issues

Competitor Collaborations

No official announcements have been made at this stage.

Price Gouging

On March 19, 2020, the **FCC** issued a [statement](#) warning importers, traders, manufacturers, and dealers of antiseptic products, face masks and gloves that price fixing, creating artificial shortages, and refusing to sell such products is an offense under the *Fair Competition Act, 2003*.

Misleading Advertising

No official announcements have been made at this stage.

Enforcement Priorities

No official announcements have been made at this stage.

Other Considerations

No official announcements have been made at this stage.

United Arab Emirates

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Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No formal measures announced, but delays may be expected.

Investigations/Litigation

Filings

Electronic filings only.

Delays/Other Considerations

No formal measures announced, but delays may be expected.

Communications With the Regulator

How are filings made/meetings handled?

Electronic filings only.

Other Antitrust Issues

Competitor Collaborations

No changes.

Price Gouging

In early April 2020 the Abu Dhabi and Dubai departments of economic development implemented measures to limit the scope of price manipulation and price gouging. The Chairman of the Abu Dhabi Department of Economic Development announced fines, ranging from AED 250,000 to AED 2 million, against economic establishments that increase prices of food and medical items without justification.

The Dubai Economy launched a 'Price Monitor' portal to track daily prices of staple foods and essentials making sure that consumers continue to get their basic needs at fair prices. The 'Price Monitor' will allow shoppers and businesses on a daily basis to track and compare the prices of 41 basic goods including rice, bread, flour, cooking oil, meat, poultry, fish, milk, eggs, water, salt, sugar fruits and vegetables and hygiene essentials such as sanitizers and face masks. A dedicated portal – Price.ded.ae – has also been launched to strengthen communication with consumers and enable them to raise their complaints and queries on price increases faster and easier. Teams from the Commercial Compliance and Consumer Protection sector in Dubai Economy will co-ordinate with retail chains and supermarkets in the Emirate to publish the daily list with the minimum and maximum price.

Misleading Advertising

No formal measures announced. Misleading advertising in respect of consumer goods and healthcare products has always been prohibited.

Enforcement Priorities

No formal measures announced.

Other Considerations

No formal measures announced.

Australia

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Competition Authority:

- The Australian Competition and Consumer Commission (“**ACCC**”) (<https://www.accc.gov.au/>)
- The Foreign Investment Review Board (“**FIRB**”) (<https://firb.gov.au/>)

Merger Review

New Filings Accepted?

Yes. However, the **ACCC** has adopted the following measures in managing the crisis:

- cancellation of all non-essential meetings with external parties and travel
- transitioning to a larger proportion of staff working remotely, meaning that internal and external communication will largely be conducted via phone and Skype.

FIRB has temporarily reduced all monetary screening thresholds to \$0. This means that all proposed foreign investments into Australian that are subject to the *Foreign Acquisitions and Takeovers Act 1975* will require **FIRB** approval regardless of the value or the nature of the investor (e.g. private foreign investor or foreign government investor) or country of origin, even if for zero value.

Waiting Period Delays?

The **ACCC** will continue to consider proposed mergers but recognizes timelines for some reviews/applications (including those with statutory timeframes) may need to be extended if there are challenges in conducting and completing the necessary inquiries with merger parties and market participants due to COVID-19. Some reviews will need to be conducted on an urgent basis. The **ACCC** has also published [more detailed guidance](#) for interested parties.

The **ACCC** has encouraged parties to consider whether non-urgent applications (e.g. mergers that are more speculative or at a very early stage with no sale agreement) can be postponed but are not actively asking parties to delay their application.

Due to a significantly increased workload, the processing time for **FIRB** approval has extended from the usual 30-40 days to around 3 months (and up to 6 months for complex applications).

The **ACCC** and **FIRB** work together so that **FIRB** approval will not be granted unless the **ACCC** has considered the proposal and raised no concerns.

Therefore parties seeking **FIRB** approval will need to address any competition effects from the proposal affecting Australian markets.

Investigations/Litigation

Filings

The **ACCC** offices are closed to the public restricting the ability to lodge any filings with the commission in person and electronic filings are required (see "*Communications with Regulator*" section below).

Delays/Other Considerations

The **ACCC** has stated that it will seek to minimize regulatory burden as far as possible and will carefully consider the impact on businesses already under pressure when making decisions about the scope and timing of statutory notice for the production of information and documents. The **ACCC** will also minimize the use of compulsory examinations, and where they are necessary, will conduct them by phone or video conference.

Communications With the Regulator

How are filings made/meetings handled?

The **ACCC** offices are closed and all filings are made electronically. The **ACCC** has adopted the following measures in managing the crisis:

- cancellation of all non-essential meetings with external parties and travel
- transitioning to a larger proportion of staff working remotely, meaning that internal and external communication will largely be conducted via phone and Skype.

Other Antitrust Issues

Competitor Collaborations

Since the outbreak of COVID-19 in Australia, the **ACCC** has granted a number of interim authorizations in a variety of sectors that permit competitors to collaborate to ensure the economy is able to function and provide essential goods, services, medicines and medical equipment, and hardship relief during the COVID-19 pandemic. These include banks, supermarkets, medicine wholesale, airlines, gas/electricity, medical supplies, oil companies, telecommunications, insurers, shopping center owners and private hospitals.

The **ACCC** has indicated that it will closely monitor the activity being undertaken in pursuit of the interim authorizations. Each interim authorization is subject to a consultation period and final decision made following further investigation and feedback from stakeholders. The period between interim authorization and final decision is typically six months.

The **ACCC** initially granted a number of urgent interim authorizations to allow companies to collaborate in their response to the challenges of COVID-19.

Since that time, we have observed that the **ACCC** has carefully reviewed the scope of authorized conduct and conditions imposed on the authorizations, before granting final authorizations.

This has included narrowing the scope of the conduct permitted under the authorization or including a requirement to report to the **ACCC** or invite external observers to participants in meetings under the authorization, to ensure transparency of the conduct being authorized.

Price Gouging

On March 30, 2020, the Federal Government passed the *Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential)(Essential Goods) Determination 2020* ("**Determination**") which prohibits a person from engaging in price gouging in relation to essential goods if:

- a person supplies, or offers to supply, the goods during the COVID-19 emergency period;
- the person purchased the goods in a retail transaction on or after March 30, 2020; and
- the person supplies or offers to supply the goods for more than 120 percent of the value for which the person purchased the goods.

Essential goods are:

- any of the following equipment that, when worn, is capable of limiting the transmission of organisms to humans:
 - disposable face masks;
 - disposable gloves;

- disposable gowns;
- goggles, glasses or eye visors; or
- any of the following disinfectant products:
 - alcohol wipes;
 - hand sanitizer.

The Determination is not enforced by the **ACCC** but by the Australian Federal Police. Breach of the Determination is an offense.

Misleading Advertising

The **ACCC** continues to enforce business conduct that may be misleading, with a focus on conduct arising in the context of the COVID-19 pandemic.

Recent activity includes:

- the fair treatment of payment processors suspending debits being made on behalf of small business gyms and fitness studios on the basis of 'ACCC advice';
- representations made to consumers by businesses in respect of products sold that prevent COVID-19 or that they business provides a service that prevents infection by COVID-19; and
- representations made with respect to the availability of statutory consumer guarantees during the COVID-19 crisis (for example, where cancellations have occurred).

Enforcement Priorities

The **ACCC** has [stated](#) that maintaining competition in the long term is critical to benefit both consumers and the economy and, to ensure a competitive economy, it wants to ensure that any changes to the competitive landscape during the COVID-19 pandemic are temporary.

The **ACCC** will prioritize competition and consumer issues arising from the impact of COVID-19 above its *2020 Compliance and Enforcement Priorities*, including any behavior by businesses which seek to exploit the crisis either to unduly enhance their commercial position or harm consumers.

A COVID-19 taskforce has been established which is focusing on early intervention by engaging directly with businesses, relevant state and federal government agencies, and consumer and other representative groups.

Other Considerations

The **ACCC** has issued guidance for [small businesses](#) and for [consumers](#) during the COVID-19 pandemic. The Australian Government Business has also released [information and support for business](#) during this period.

Hong Kong

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Competition Authority:

- The Hong Kong Competition Commission (“**Competition Commission**”)
- The Hong Kong Competition Tribunal (“**Competition Tribunal**”)

Merger Review

New Filings Accepted?

N/A. No merger notification requirements under the *Hong Kong Competition Ordinance*.

Waiting Period Delays?

N/A

Investigations/Litigation

Filings

The Competition Commission continues its operations to enforce the *Competition Ordinance*.

Delays/Other Considerations

The *Competition Ordinance* continues to be in full effect. In its press release regarding the application of the *Competition Ordinance* during the COVID-19 outbreak, the **Competition Commission** reminds the public that it will remain vigilant to protect consumers from anti-competitive conduct by businesses that take advantage of the outbreak, and anti-competitive conduct committed will be subject to the full force of the competition law.

Communications With the Regulator

How are filings made/meetings handled?

Filings may be made via email or registered post. Meetings may be held via telephone or video conferences.

Other Antitrust Issues

Competitor Collaborations

The **Competition Commission** recognizes the need for cooperation among businesses in certain industry sectors, particularly to maintain the supply of essential products and services to consumers. However, the **Competition Commission** stresses that such cooperation should be on a temporary basis. Businesses that wish to propose such temporary cooperation measures are encouraged to contact the **Competition Commission** to discuss the application of the **Competition Ordinance** to the specific measures.

Price Gouging

The Hong Kong government has resisted pressure to crack down on price-gouging retailers using emergency legislation or categorizing certain essential products (such as face masks) as “reserve commodities”. Nevertheless, the **Competition Commission** in its press release states its commitment to protect consumers from anti-competitive conduct by businesses who take advantage of the outbreak to engage in anti-competitive conduct.

Misleading Advertising

The Hong Kong government has warned the public to be vigilant about deceptive or misleading advertising regarding certain essential products such as face masks, hand sanitizers, disinfectant wipes, etc.

Enforcement Priorities

In its statement regarding the COVID-19 outbreak, the **Competition Commission** states that it will continue to enforce the **Competition Ordinance** to protect consumers from businesses seeking to take advantage of the outbreak to justify or engage in collusive conduct or other anti-competitive behavior. The **Competition Commission** reminds the public that anyone who is aware of such anti-competitive conduct should file a complaint to the **Competition Commission**, while businesses which are already involved in such conduct should approach the **Competition Commission** for leniency or cooperation.

The **Competition Commission** released two separate press releases (in May and August 2020) related to the Anti-Epidemic Fund, which encompasses various subsidy programs introduced by the Hong Kong Government to assist businesses and individuals affected by the COVID-19 outbreak, to remind those involved in such relief programs to be vigilant against potential anti-competitive practices that may undermine the procurement process.

Notably, in the August press release, the Competition Commission addresses recent press reports of suspected collusive practices engaged in by some businesses in connection with the procuring and supplying of products and services related to the Anti-Epidemic Fund subsidy programs. The **Competition Commission** reiterates that (i) suppliers “*should never*” agree with their competitors to coordinate who should win a bid, or to support the designated winner by refraining from bidding or by submitting cover bids; and (ii) businesses applying for subsidies should refrain from being complicit in any anti-competitive conduct, such as by being a party to a collusive agreement themselves, or by allowing a subsidy application submitted on their behalf, knowing that the application contains price quotations obtained as a result of supplier collusion.

Other Considerations

The **Competition Commission** has recently reopened its office. Members of the public may contact the **Competition Commission** for inquiries or complaints through the telephone hotline, by regular mail or email, or in person at the **Competition Commission’s** office by appointment.

India

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Competition Authority: The Competition Commission of India (“**CCI**”) (<https://www.cci.gov.in/>)

Merger Review

New Filings Accepted?

Yes. Electronic versions of new merger filings are to be made by email. The date for submitting hard copy versions will be notified separately.

Parties may reach out to the **CCI** to schedule pre-filing consultations through videoconferencing.

Waiting Period Delays?

The **CCI** has stated that it will endeavor to process new as well as pending cases subject to the availability of necessary information and material. Although the **CCI** is open for business (with the nation-wide “unlock” strategy now in place), its officers and staff are going to the **CCI**’s offices on rotation, with others working from home. Some delay in processing filings may be expected but largely remain within statutory deadlines.

Investigations/Litigation

Filings

Electronic versions of new complaints can be filed by email. The date for submitting hard copy versions will be notified separately.

Other filings and compliances relating to enforcement proceedings (concerning anti-competitive agreements and abuse of dominant position) before the **CCI** or the investigating Director General can be filed by email (although officers at the Director General’s Office (“**DG**”) are increasingly requesting hard copies). The **CCI** is also allowing physical inspection by the parties to review the case files.

Delays/Other Considerations

As mentioned above, the **CCI** has stated that it will endeavor to process new as well as pending cases subject to the availability of necessary information and material. Hearings before the **CCI** continue to be deferred. The **CCI** does however continue with internal meetings.

Proceedings before the **DG** (including recording witness statements on oath) are starting to gain momentum (modalities are being worked out for witnesses who are based outside Delhi on account of travel and subsequent isolation requirements).

Communications With the Regulator

How are filings made/meetings handled?

As mentioned above, the **CCI** is working with a limited staff on rotation with other officers working from home. Officials have been available over the phone and have been processing requests for information, etc.

Filings are generally being made electronically by e-mail. Face to face meetings are in general being avoided (however, as mentioned above, the **DG** is beginning to schedule recording of witness statements on oath).

Other Antitrust Issues

Competitor Collaborations

On April 19, 2020 the **CCI** issued an advisory recognizing the need for limited coordination amongst competitors in order to cope-up with the unprecedented disruption to business on account of COVID-19. The **CCI** acknowledge the need for competitors to coordinate certain activities, by way of sharing data on stock levels, timings of operation, sharing of distribution network and infrastructure, transport logistics, R & D, production etc., to ensure continued supply and fair distribution of products (e.g., medical and healthcare products such as ventilators, face masks, gloves, vaccines etc. and essential commodities) as well as services (e.g., logistics and testing).

In this regard, it should be noted that efficiency-enhancing joint ventures are not presumed to have an appreciable adverse effect on competition and are, subject to various conditions, permissible; the onus of demonstrating the increased efficiency is on the parties.

The advisory does not require pre-clearance of any coordination. However, the **CCI** cautioned that only conduct that is necessary and proportionate to address concerns arising from COVID-19 will be covered. The **CCI** continues to keep a watchful eye and has cautioned business to not take advantage of COVID-19 to contravene the provisions of the *Competition Act, 2002*.

Price Gouging

The Government of India has notified price caps for a number of declared essential commodities including pharmaceutical drugs and medical devices. Masks and hand sanitizers were earlier on this list but have since been removed on account of adequate supply.

Misleading Advertising

The Department of Consumer Affairs hosts a portal for registering online complaints of misleading advertising. The Government of India has been pressing social media platforms to remove posts providing misleading information from their systems. The Department is also formulating an advertising code to curb unfair trade practices such as misleading advertising.

Separately, owing to a spread of inaccurate and false news in relation to the COVID-19 outbreak, the Supreme Court of India had directed that only a verified and official version of information is to be published. These directions continue to be adhered to.

Enforcement Priorities

As mentioned above, the **CCI** has issued an advisory allowing collaboration amongst competitors limited to the extent of addressing the concerns arising from the COVID-19 outbreak. Business have also been warned to not take advantage of the outbreak to contravene the provisions of the *Competition Act*.

In a recent case involving cartelization by small and medium-sized enterprises, the **CCI** decided not to impose monetary penalties. The **CCI** acknowledged the hardships faced by such enterprises due to the COVID-19 outbreak and was of the view that imposing penalties on them would be detrimental to their survival.

Other Considerations

The National Company Law Appellate Tribunal (“**NCLAT**”) (which hears appeals of the **CCI**’s decisions), the Supreme Court of India (which hears appeals of the decisions of the **NCLAT**) and High Courts (where procedural challenges against the **CCI** are raised) have not been conducting regular hearings, and have largely been listing only fresh or urgent matters for hearing over video conference. However, plans for resuming physical functioning (with social distancing) are being worked out.

In the meanwhile, several courts are directing the continuation of interim orders passed in cases prior to the COVID-19 outbreak.

Indonesia

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Competition Authority: Indonesian Competition Commission (*Komisi Pengawas Persaingan Usaha*) (“**KPPU**”)

- The Official Website (<https://kppu.go.id/>)
- Relevant Regulation:
 - *Indonesian Competition Commission (Komisi Pengawas Persaingan Usaha the “KPPU”) Regulation No. 1 of 2020 on Electronic Case Handling (“**Regulation No. 1/2020**”)* (<https://www.kppu.go.id/id/wp-content/uploads/2020/04/Perkom-1-Thn-2020.pdf>)
 - *KPPU Decree No. 10/KPPU/Kep.1/III/2020 on Temporary Cessation of Law Enforcement Activities within the Secretariat of the KPPU (“**KPPU Decree No.10/2020**”)*.
 - *KPPU Decree No. 11/KPPU/Kep.1/III/2020 (on the Amendment of KPPU Decree No.10/2020)*.
 - *KPPU Decree No. 12 /KPPU/Kep.1/IV/2020 on cases handling in disaster emergency conditions of corona viruses Disease in Indonesia dated 6 April 2020* (<https://www.kppu.go.id/id/wp-content/uploads/2020/04/Keputusan-No-12-KPPU-Kep.1-IV-2020.pdf>)
 - *KPPU Press Release No. 16/KPPU-PR/III/2020 (“**KPPU PC No. 16**”)* (https://www.kppu.go.id/id/wp-content/uploads/2020/03/Siaran-Pers-No.-16_KPPU-PR_III_2020.pdf)
 - *KPPU Press Release No. 21/KPPU-PR/IV/2020 (“**KPPU PC No. 21**”)* (https://www.kppu.go.id/id/wp-content/uploads/2020/04/Siaran-Pers-No.-21_KPPU-PR_IV_2020.pdf)
 - *KPPU Press Release No. 33/KPPU-PR/VI/2020 (“**KPPU PC No. 33**”)* (https://kppu.go.id/wp-content/uploads/2020/06/Siaran-Pers-No.-33_KPPU-PR_VI_2020.pdf)

Merger Review

New Filings Accepted?

Yes. According to **Regulation No. 1/2020**, merger notification and assessment (submission of consultation, notification, assessment, request for opinion of the Commission, and issuance of notification stipulation) can be performed via electronic media, not limited to email and visual teleconference. Therefore, in the midst of the COVID-19 outbreak, which results in limitations on physical contacts, new filings can still be submitted through electronic media.

Waiting Period Delays?

The procedures and timeline for merger notification and assessment during the COVID-19 outbreak will remain the same.

When the COVID-19 outbreak in Indonesia was first acknowledged officially (in early March 2020), the **KPPU** issued **KPPU Decree No.10/2020**, which resulted in a temporary cessation of enforcement activities until March 31, 2020. The **KPPU** extended this period until April 7, 2020 on the basis of **KPPU Decree No. 11/KPPU/Kep.1/III/2020 (on the Amendment of KPPU Decree No.10/2020)**.

From March 17 to April 6, 2020, the **KPPU** also ceased to accept notifications and assess notified transactions. During this period, the **KPPU** did not apply the 30-business-day notification deadline or follow the 60-day period to review information and supporting documents submitted within the framework of a notification, or the 90-day period for the assessment of transactions.

In relation to this matter, based on **KPPU PC No. 16**, the Commission has issued a policy to give leeway to a business actor carrying out a merger, consolidation or acquisition (including transfer of productive assets) to file the notification form following the end of the work-from-home (**WFH**) policy on April 2, 2020 (subject to reassessment of the situation during the COVID-19 outbreak).

On June 5, 2020, the **KPPU** issued **KPPU PC No. 33**, in which it stated that the notification process during the COVID-19 pandemic was continuing smoothly, even though most **KPPU** employees were working from home. The **KPPU** noted that from March to June 5, 2020, it had received 56 notifications of various types of transaction, including mergers, share acquisitions, and transfers of productive assets. This appears to indicate that the **KPPU** notification process has not been hampered by the pandemic.

Investigations/Litigation

Filings

Submission of allegations, clarification of allegations, investigations (including investigations of alleged delay merger notification), hearings, monitoring of behavioral remedy and summons are performed using electronic media and teleconferences.

Examination of the parties can be performed via email or visual teleconferences.

Requests for, submission of and/or acceptance of digital evidence are performed by email.

Witnesses and experts that must testify under oath are required to swear their oath through a visual teleconference. An investigator will guide the process. The witness or expert who swears an oath or promise must be facilitated by the oath-taking equipment.

The statements given by the reporting party, reported party, witness and/or expert (“**Parties**”) must be recorded in minutes and the statement of approval of the minutes of meeting will be sent by the Parties to the investigator through email.

Delays/Other Considerations

Procedures and timelines for case handling or investigations remain the same. In the current situation, we believe that in practice, the case handling period may have to be extended.

Communications With the Regulator

How are filings made/meetings handled?

Pursuant to **Regulation No. 1/2020**, the filings may be made through the official website/email address of the **KPPU**.

The Tribunal remains in operation. However, as the **WfH** policy may be extended by the **KPPU**, hearings at the **KPPU** premises may be temporarily suspended. **Regulation No. 1/2020** also provides that hearings may be carried out by teleconference. There was a temporary halt to **KPPU** activities between March 17 and April 6, 2020, but the agency resumed its activities subsequently, with limitations established through a part-**WfH**, part-Working from Office (“**WfO**”) regime for its officials, working to prearranged schedules. Since then, the **KPPU** has received a significant number of notifications. ABNR has also been able to make notifications and submit relevant documents electronically without the necessity to hold face-to-face meetings with **KPPU** staff.

Other Antitrust Issues

Competitor Collaborations

We are not aware of any regulation, policy or press release issued by the Commission on this matter.

Price Gouging

The **KPPU** has issued **KPPU PC No. 16** and **KPPU PC No. 21**.

Under these press releases, the **KPPU** ordered businesses not establish a cartel, excessive price arrangement, and/or hoarding of personal protective equipment (“**PPE**”) and basic needs items. The **KPPU** will take legal action against any such violations.

Misleading Advertising

We are not aware of any regulation, policy or press release issued by the **KPPU** on this matter.

Enforcement Priorities

Due to the COVID-19 outbreak, the **KPPU** is focusing its attention on the procurement of **PPE** and food commodities as basic needs of the community (currently the **KPPU** is paying attention to the price of granulated sugar).

One of the concrete actions carried out by **KPPU** in law enforcement is that **KPPU** carries out investigations related to potential violations of rapid test implementation by hospitals. On its own initiative, the **KPPU** determined the implementation of a rapid test during the prevention of the spread of COVID-19 of investigation. **KPPU** suspects that certain parties require consumers or recipients of rapid test services to receive the entire COVID-19 detection package at a high cost, even though some procedures may not be necessary.

On other commodities, the **KPPU** has commenced investigative proceedings on distribution activities in the cement industry in South Kalimantan following allegations of predatory pricing.

Other Considerations

- Requests for public information, competition law-related and partnership consultations, and applications for virtual research/intern/study visits may be submitted to infokom@kppu.go.id; magangonline@kppu.go.id.
- The filing of reports on allegations of violations of competition law and partnerships, and public complaints, may be submitted to pengaduan@kppu.go.id.

New Zealand

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Competition Authority: The New Zealand Commerce Commission ("**Commission**") (<https://comcom.govt.nz/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No, although the **Commission** has [stated](#) it may need an extension if there are delays in receiving responses to information requests due to COVID-19.

Investigations/Litigation

Filings

The **Commission** has not given any specific guidance on this.

Delays/Other Considerations

The **Commission** has [stated](#) that it is aware of the pressures that COVID-19 is putting on businesses and it will work with businesses under investigation regarding challenges they are facing as they respond to government measures put in place regarding COVID-19. In practice the **Commission** is allowing more time for parties under investigation to respond to information requests.

Communications With the Regulator

How are filings made/meetings handled?

The **Commission**'s offices are closed and it has [stated](#) that meetings will take place via teleconference or Microsoft Teams calls.

Other Antitrust Issues

Competitor Collaborations

The **Commission** has [stated](#) that it will not take enforcement action under New Zealand competition law against businesses that are cooperating to ensure New Zealanders continue to be supplied with essential goods and services during COVID-19.

However, the **Commission** further stated that it will not tolerate businesses using COVID-19 as an excuse for non-essential collusion or anti-competitive behavior, including sharing information on pricing or strategy where it isn't necessary in the current situation.

For businesses that do not provide essential goods and services, the **Commission** has stated its belief that New Zealand's competition laws are sufficiently flexible to accommodate legitimate arrangements or collaborations between competitors in certain circumstances. The standard exceptions that apply here to cartel conduct are for collaborative activities, vertical supply arrangements and joint buying arrangements.

Price Gouging

The Commission has released limited [consumer guidance](#) regarding price gouging on its website. This guidance states that businesses are free to set their own prices, including to levels above those previously charged, but that the *Fair Trading Act 1986* prohibits businesses from making misleading, deceptive or false representations about why prices have been raised.

Misleading Advertising

The **Commission** has [stated](#) that it is working with other Government agencies to address any reports of claims related to COVID-19 that may confuse or mislead consumers. For example, if a business claims that their product or service provides a cure or prevention for COVID-19 they must have evidence showing a reasonable basis for that claim or they will breach the *Fair Trading Act 1986*.

Enforcement Priorities

See above.

Other Considerations

In relation to regulated industries, the **Commission** has [stated](#) it intends to be pragmatic in its approach to enforcement where companies can show that compliance issues have arisen as a consequence of prioritizing efforts to protect customers, security of supply and safety or as a consequence of factors entirely outside of the company's control during COVID-19. The **Commission** also expects to ease regulatory reporting processes.

The New Zealand government has also introduced a temporary authorization regime that will stay in force during a defined "epidemic period." This regime allows arrangements which contain "cartel provisions" (i.e. provisions that fix prices, restrict output or allocate markets between competitors) to be authorized by the **Commission** if the proposed arrangement would result in sufficient benefit to the public. The regime also contains provisions streamlining the authorization process. Notably, these changes do not impact the existing merger authorization regime operated by the **Commission**.

Philippines

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Competition Authority: The Philippine Competition Commission ("**Commission**") (<http://www.phcc.gov.ph/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No.

Investigations/Litigation

Filings

Investigations are continuing and the **Commission** accepts submissions, see below.

Delays/Other Considerations

The statutory periods for the filing of pleadings, motions, affidavits, and other submissions, and the payment of fines or penalties to the **Commission** are deemed interrupted from March 16, 2020 to the lifting of the community quarantine. Parties shall have the balance of their respective reglementary periods to file their submissions with, or to pay the fines and penalties imposed by, the **Commission**. Submissions and payments made during the remaining period shall be considered to have been timely made.

Communications With the Regulator

How are filings made/meetings handled?

Communications are by e-mail and phone.

Other Antitrust Issues

Competitor Collaborations

The **Commission** has stated that during the pandemic, certain business practices may be allowed temporarily if they lead to efficiencies, economies of scale and scope, reduced costs, and better service or lower prices.

Price Gouging

The Philippine Congress passed *Republic Act No. 11469* declaring a state of public health emergency because of COVID-19. The law penalizes hoarding, profiteering, injurious speculations, manipulation of prices, product deceptions, and cartels, monopolies or other combinations in restraint of trade, or other pernicious practices affecting the supply, distribution, and movement of certain goods, with imprisonment of two months or a fine of not less than PHP 10,000 (c. USD 200) but not more than PHP 1,000,000 (c. USD 20,000) or both, at the discretion of the court.

The Departments of Agriculture, Health, and Trade issued *Joint Memorandum Circular No. 2020-01*, imposing price ceilings on certain basic and essential necessities. Any persons found violating the price ceilings will be liable for a fine of between PHP 5,000 (c. USD 100) and PHP 2,000,000 (c. USD 40,000) and imprisonment of not less than five years but not more than 15 years.

Asia and the Pacific

Misleading Advertising

See above.

Enforcement Priorities

The **Commission** has adjusted its priorities in light of COVID-19 and has launched a campaign to educate the public on possible antitrust violations in the context of the pandemic. The **Commission** has established a dedicated COVID-19 portal, to receive complaints for violations involving food, medicines and medical devices, hygiene and sanitation, and utilities, among others.

Other Considerations

None.

Taiwan

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Competition Authority: The Taiwan Fair Trade Commission (“**TFTC**”) (<https://www.ftc.gov.tw/internet/english/index.aspx>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No. The **TFTC** is operating as usual. However, due to the difficulty to collect information, the parties may need more time to respond to the RFIs. Therefore, parties should expect a longer pre-notification period.

Investigations/Litigation

Filings

Filings are accepted as usual.

Delays/Other Considerations

Investigations may be slow downed a little bit due to the **TFTC**'s top priority in investigating potential cartel and misleading advertising conduct amid COVID-19 (e.g. stockpile of instant noodles and toilet paper).

Communications With the Regulator

How are filings made/meetings handled?

The **TFTC** still accepts hardcopy filings. Face-to-face meetings are conducted only when necessary. No virtual meetings are conducted so far.

Other Antitrust Issues

Competitor Collaborations

The **TFTC** has not issued any official enforcement policy on competitor collaborations amid COVID-19. Government-led competitor collaborations in manufacturing as many essential products as possible are in fact supported by the **TFTC**. However, it is unclear whether competitor collaborations without the government's involvement will be supported by the **TFTC**. It is advisable to seek approval from the **TFTC** before implementation of such collaborations.

Price Gouging

Price gouging is now on the top of the **TFTC**'s enforcement agenda. The **TFTC** is closely monitoring the prices of essential goods (e.g. masks and alcohol) and is very likely to investigate price gouging to find out whether there is any cartel activity.

Misleading Advertising

Misleading advertising is now also a priority on the **TFTC**'s enforcement agenda. The **TFTC** has received several misleading advertising complaints involving retailers' inability to sell products that are advertised to be on sale.

Enforcement Priorities

Cartel (e.g. price fixing and agreement on production volume) and misleading advertising are enforcement priorities now.

Other Considerations

Merger filings are advised to be filed as soon as possible because parties may need more time to collect information requested by the **TFTC**.

Thailand

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Competition Authority: The Office of Trade Competition Commission (“**OTCC**”) (<https://otcc.or.th/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

For pre-merger approval, the **OTCC** is required under the *Thai Trade Competition Act* (“**TCA**”) to complete its consideration within 90 days from the receipt date of the application for pre-merger approval. This statutory timeline should not be affected by the COVID-19 outbreak.

However, the **TCA** does not provide a statutory timeframe for the consideration of a post-merger notification. In practice, the timeframe for a post-merger notification is subject to various factors (e.g. workload of the case officers and the complexity of the matter). Therefore, it is advisable that the merging parties should discuss timelines with the **OTCC** officers on a case-by-case basis.

Investigations/Litigation

Filings

According to the Trade Competition Commission’s (“**TCC**”) guidelines for competition litigation under the **TCA**, the claimant is entitled to file a complaint with the **TCC** in writing, or by email, or in person to a **TCC** officer, or by telephone.

Delays/Other Considerations

The **OTCC** has not yet issued an official statement concerning the impact that the COVID-19 outbreak may have on its investigation process, or the overall timeframe for the investigations/litigation.

Communications With the Regulator

How are filings made/meetings handled?

For investigation/litigation filings, the **TCC**'s guidelines for competition litigation allows for the filings to be made to the **OTCC** via electronic means, such as email.

However, merger filings to the **OTCC** are still required to be made in the form of paper filings. At present, the **OTCC** has not issued subordinate legislation to allow electronic filings.

The **OTCC** remains in operation, but in-person meetings are not encouraged at this time. The **OTCC** also allows for conference calls to be made in place of physical meetings.

Other Antitrust Issues

Competitor Collaborations

On April 1, 2020 the **OTCC** has issued an official statement warning that the collaboration between food delivery platform providers, in order to increase their charges or to impose additional fees on restaurants, which will also result in raising food prices, may constitute an offense under the **TCA**. The **OTCC** further states that it is closely monitoring food delivery platform providers for any actions which may violate the **TCA**.

Price Gouging

On April 1, 2020 the **OTCC** issued an official statement, warning food delivery platform providers against raising their charges to a much higher level (from 20 percent to 35-40 percent) during the COVID-19 outbreak. The **OTCC** further stated that if they find that such conduct falls within the scope of unfair trade practice, and causes damage to other business operators, the offender will be liable for administrative fines not exceeding 10 percent of their turnover in the year that such offense is committed.

Misleading Advertising

There are currently no enforcement precedents by the **OTCC** in respect to misleading advertising due to COVID-19.

Asia and the Pacific

Enforcement Priorities

During the past year, the **TCC** has been actively pursuing enforcement of the **TCA**, and the first three precedent cases under the current **TCA** involves the abuse of a dominant market position, as well as unfair trade practices.

The **OTCC** has also recently issued guidelines that focused specifically on unfair trade practice in franchise businesses, as well as guidelines for unfair trade practices in wholesale and retail businesses.

This year, the **OTCC** has also been actively pursuing enforcement of the **TCA** against food delivery platforms. On May 18, 2020, the **TCC** has issued a formal statement that it is expediting the investigation on the conduct of food delivery platform operators in raising their fees charged on the restaurants, and if such conduct constitutes a violation of the **TCA**, penalties will be imposed on such food delivery platform operators. In addition, the **OTCC** has also opened a public hearing for the draft guidelines on unfair trade practice between the food delivery platform providers and restaurants during October 17, 2020 to September 15, 2020.

Other Considerations

N/A

European Union

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Competition Authority: The European Commission Directorate-General for Competition (“**Commission**”)
(<https://ec.europa.eu/competition/antitrust/coronavirus.html>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

Yes. The **Commission** encourages to consider the timing of filings and to discuss it with the case team. The **Commission** also faces difficulties in some cases in collecting information from the notifying parties and third parties. At the same time, the **Commission** stands ready to deal with cases where firms can show compelling reasons to proceed with a merger notification without delay.

Investigations/Litigation

Filings

Commission: Filings with the **Commission** are still possible. The anonymous whistle blower tool is also still maintained.

European Courts: Filings with the European Court of Justice and the General Court (jointly the “**EU Courts**”) are still possible. Also, procedural time limits for instituting proceedings and lodging appeals continue to run.

Delays/Other Considerations

Commission: The **Commission's** ability to conduct dawn raids is likely reduced in the short term, because the **Commission** went into partial lockdown on March 16, 2020 which is still on-going.

EU Courts: Judicial activity continues. As of May 25, 2020, the **EU Courts** gradually resume hearings. However, if parties are unable to travel to Luxembourg, they may, under certain conditions, be permitted to attend a hearing by videoconference. Also, some hearings may have to be replaced with questions to the parties for a written response owing to the difficulties caused by COVID-19.

As of September 1, 2020, procedural time limits will no longer be extended by one month, i.e. the standard procedural time limits will apply to all procedural documents served by the **EU Courts**.

Communications With the Regulator

How are filings made/meetings handled?

Commission: **Commission** filings are encouraged to be made electronically. Sensitive information can be submitted via [eTrustEx](#). The **Commission** is available for conference calls in all cases.

The whistleblower tool allows for electronic filing. Leniency filings can also be made electronically via [eLeniency](#).

EU Courts: Parties are strongly encouraged to use [e-Curia](#) for electronically lodging and servicing of procedural documents.

Other Antitrust Issues

Competitor Collaborations

The **Commission** published a [Temporary Antitrust Framework](#) for assessing antitrust issues related to business cooperation in response to COVID-19 on April 8, 2020. Under the *Framework* the **Commission** will refrain from scrutinizing certain temporary cooperation projects aimed at addressing the shortage of essential products and services during the COVID-19 outbreak. Companies should document all exchanges and agreements between them and be able to make them available to the Commission on request. Prior to publishing the *Framework*, the **Commission** (as part of the European Competition Network) stated in more general terms that it would “[not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply.](#)”

The **Commission** is also willing to provide temporarily ad hoc written comfort to companies in relation to specific and well-defined cooperation projects (Comfort Letter).

In addition, it set up a [dedicated website](#) to help companies assess the compatibility of their business arrangements with EU competition law. In case there is still uncertainty, the **Commission** is ready to provide guidance via a dedicated email contact (COMP-COVID-ANTITRUST@ec.europa.eu).

Price Gouging

According to the [Temporary Antitrust Framework](#), the **Commission** will not tolerate conduct by companies that opportunistically seek to exploit the crisis. This includes exploitation of a dominant positions conferred by the particular circumstances of this crisis by, for example, exploiting customers and consumers by charging prices above normal competitive levels.

In addition, the **Commission** informed manufacturers that they can set maximum prices for their products (thus limiting the possibility for price gouging within the distribution chain).

Misleading Advertising

N/A

Enforcement Priorities

The **Commission** stated it will not tolerate conduct by undertakings that opportunistically seek to exploit the crisis as a cover for anti-competitive collusion or abuses of their dominant position. Companies and citizens are asked to report on such violations.

Other Considerations

N/A

Belgium

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Competition Authority: The Belgian Competition Authority (“**BCA**”) (<https://www.belgiancompetition.be/en>)

Merger Review

New Filings Accepted?

In March 2020, the Belgian Competition Authority (“**BCA**”) has released a press statement in which it invited undertakings to delay any project of concentration that is not urgent.

See: https://www.belgiancompetition.be/sites/default/files/content/download/files/20200319_press_release_13_bca_0.pdf

Waiting Period Delays?

At the beginning of the COVID-19 crisis, there was no official communication on waiting period delays. All staff members were teleworking and the handling of cases continued. However, the **BCA** stated that the containment measures could have an impact on the ability to handle merger cases, in particular on the gathering of information from the parties and third parties.

See: https://www.belgiancompetition.be/sites/default/files/content/download/files/20200319_press_release_13_bca_0.pdf

The handling of merger cases has now returned to normal.

Investigations/Litigation

Filings

The offices of the **BCA** have reopened since June 8, 2020, but the staff members are still mainly teleworking. The handling of cases has gone back to normal.

For information on cases under investigation or any new cases, the following persons can be contacted:

- Véronique Thirion, Competition Prosecutor General: veronique.thirion@bma-abc.be.
- Nathalie Sterckval, responsible for the secretariat of the President and the Investigation and Prosecution Service: nathalie.sterckval@bma-abc.be.

Delays/Other Considerations

The offices of the **BCA** have reopened and the handling of cases has gone back to normal. The staff members are still mainly teleworking.

Communications With the Regulator

How are filings made/meetings handled?

The current situation is that physical meetings at the offices of the **BCA** are limited. The communications with the **BCA** mainly occur by telephone. Filings are done electronically as usual.

Other Antitrust Issues

Competitor Collaborations

For the time being, the **BCA** has not officially announced that the Belgian competition law rules applicable to agreements between competitors will be adapted in order to address the COVID-19 crisis. The **BCA** collaborates with the competition authorities of the other Member States of the European Union and with the European Commission within the framework of the European Competition Network (“**ECN**”).

The **ECN** has released a joint statement (“*Joint statement by the European Competition Network (“**ECN**”) on application of competition law during the COVID-19 crisis*”) in which it explicitly states that competition rules ensure a level playing field between companies and that this objective remains relevant also in a period when companies and the economy suffer from crisis conditions. The statement also provides that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers. In the current circumstances, the **ECN** will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply.

This is also confirmed by the EU Commission in its *Framework Communication* which sets out the conditions under which cooperation between competitors is allowed in COVID-19 related emergency situations, where this cooperation is aimed at ensuring the supply/distribution of essential scarce products and services and avoiding the shortages of such essential products and services.

However, this cannot be considered as a go-ahead for undertakings to infringe competition law. Every cooperation between competitors can and will be assessed on a case by case basis. Under the current rules and in the light of the recent EU developments, the following forms of cooperation seem to be justified:

- Cooperation through a trade association (e.g. for joint transport for input materials; for the identification of essential medicines for which there are risks of shortages; etc.);
- Cooperation to coordinate the reorganization of production with a view to increasing and optimizing output where such reorganization would allow producers to satisfy demand for urgently needed medicines and avoid shortages;
- Exchange of sensitive information that are designed and objectively necessary to actually increase output in the most efficient way to address or avoid a shortage of supply of essential products or services; that are temporary in nature; and that do not exceed what is strictly necessary to achieve the objective of addressing or avoiding the shortage of supply.

Price Gouging

N/A

Misleading Advertising

N/A

Enforcement Priorities

The joint statement of the **ECN** states that it understands that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers. In the current circumstances, the **ECN** will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply.

However, this cannot be considered as a go-ahead for undertakings to infringe competition law.

Every cooperation between competitors can and will be assessed on a case by case basis. The **ECN** will not hesitate to take action against undertakings taking advantage of the COVID-19 crisis by entering into a cartel on such products or services.

Other Considerations

Abuse of dominant position: The **ECN** states explicitly in its joint statement it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current situation remain available at competitive prices.

The **ECN** will therefore not hesitate to take action against companies taking advantage of the COVID-19 crisis by abusing their dominant position.

The impact of the COVID-19 crisis on abuses of dominant position is unclear. It is nevertheless probable that surviving undertakings might benefit from the failure of their competitors and secure a significant market share which may bring them within the threshold of dominance.

Bulgaria

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Competition Authority: The Competition Protection Commission (“**CPC**”) (<https://www.cpc.bg/SearchResults.aspx>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

After the abolition of the state of emergency in the country on May 13 and at the present, the mergers’ reviews are being hold regularly and without any unusual delays.

Investigations/Litigation

Filings

The submission of any kind of documents is recommended to be done mainly by post or by electronic means. Paper filings in the premises of the **CPC** are also allowed, however, only upon abiding strict hygiene requirements, such as mandatory wear of masks and gloves, maintaining distance, restriction of the maximum visitors at once etc.

Delays/Other Considerations

After the abolition of the state of emergency in the country on May 13, there are no legally stipulated grounds for delay of any of the procedures conducted before the Competition Protection Commission, thus, the proceedings before the **CPC** and the competent courts have been restored and are taking place in due time.

Communications With the Regulator

How are filings made/meetings handled?

As pointed above, filings could be made either by physical submission of the documents in **CPC**'s premises while complying with the imposed hygiene requirements, by post or electronically.

The access of participants in proceedings before the **CPC** to the Commission's premises is carried out under strict hygiene protection requirements and distance restrictions rules.

Other Antitrust Issues

Competitor Collaborations

The European Commission ("EC") has published on April 8, 2020 a *Temporary Framework* for assessing antitrust issues related to business cooperation in response to situations of urgency stemming from the current COVID-19 outbreak. The Bulgarian **CPC** has adopted an approach for handling the anti-trust issues in the light of the epidemic situation in full compliance with the guidelines of the European Commission.

In this regard so as to avoid shortages of "products that are vital to the physical survival of the society", the **CPC** is ready to adopt a more lenient approach to temporary and proportionate coordinated measures taken by market participants, pursuing only the stated goals and necessary to achieve them.

On May 4, 2020, three implementing regulations were published in the *Official Journal of the EU*, forming part of a package of *EC Measures to Address the COVID-19 Crisis in the Agricultural Sector*. The three regulations cover the milk and milk products sectors (Implementing Regulation (EU) 2020/599), potatoes (Implementing Regulation (EU) 2020/593) and live plants (Implementing Regulation 2020/5/594).

The extraordinary measures of the **EC** are based on *Art. 222* of the *Regulation For Common Organization of the Markets in Agricultural Products*, which authorizes the **EC** to adopt temporary measures for inapplicability of *art. 101* of the *TFEU* in situations of serious market imbalance.

The non-applicable measures adopted allow farmers, farmers' associations, associations of similar associations, recognized producer organizations, associations of recognized producer organizations and recognized interbranch organizations in the sector concerned to identify and implement measures at the relevant market level, on which they are located, to stabilize the sector and in accordance with the rules for the functioning of the internal market, for a period not exceeding six months.

Through the three regulations for implementation, the *EC proclaims Art. 101* of the *TFEU* as temporarily inapplicable to agreements and decisions on withdrawal from the market and free distribution, processing and processing, storage, joint promotion and temporary planning of production in the sector of potatoes, live trees and other plants, bulbs, roots and the like, cut color and ornamental plants, as well as agreements or general decisions on the planning of the volume of raw milk to be produced, for a period of six months from the entry into force of the regulations. Member States, including national competition authorities, are empowered to ensure that the agreements and decisions to which the implementing regulations apply do not impede the proper functioning of the internal market and are intended solely to stabilize the sector.

To that end, implementing regulations shall require market participants to notify those agreements or decisions to the competent authorities of the Member State with the largest share of the estimated volume of production covered by the agreement or decision concerned. The notification should be made immediately after the conclusion of the agreement or decision and should set out the forecast for the volume of production covered. No later than 25 days after the end of the six-month period, a further notification containing information on the actual volume of proceedings covered by the agreement or decision shall be lodged. The competent national authorities, for their part, should periodically provide the **EC** with the necessary information.

The Ministry of Agriculture, Food and Forestry ("**MAF**") is the law enforcement body that, according to *Article 3* of the *Law on the Implementation of the Common Organization of Agricultural Markets of the European Union*, organizes and controls the collection and processing of market information sent to European Commission. The Ministry of Agriculture and Food is also the institution with the narrowest specialized competence in the field of agriculture and food. The Commission for Protection of Competition ("**CPC**") is the national body that monitors compliance with European competition rules.

Under the three implementing regulations, both bodies should receive notifications from market participants of planned joint actions falling within the scope of the derogations. For their part, the **CPC** and the Ministry of Agriculture and Food will exchange information with each other on all notifications received by the end of the six-month period.

The **CPC** emphasizes that all agreements and decisions that directly or indirectly lead to market sharing, discrimination based on nationality or price fixing are excluded from the temporary inapplicability of the regime of *Art. 101* of the *TFEU*.

If the notified agreements and decisions do not meet the conditions for derogation or have ceased to meet them, *Article 101 (1) TFEU* shall apply.

Notification of an agreement or decision falling within the scope of any of the three regulations may be made to the Ministry of Agriculture, Food and Forestry and to the Commission for Protection of Competition.

Price Gouging

The **CPC** shall continue to closely monitor and competitively evaluate the behavior of the market participants so as to ensure that essential public health products (such as masks, disinfectants and other products necessary to protect the health and life of citizens in the context of this emergency) offer competitive prices on the market and their supply will not be impeded.

Misleading Advertising

The **CPC** shall vigilantly monitor the advertising practices in the light of the legal requirements, including the presence of deceptive marketing for products claiming to prevent the virus.

Enforcement Priorities

The **CPC** will not tolerate conduct by undertakings that opportunistically seek to exploit the crisis as a cover for anti-competitive collusion or abuses of their dominant position by, for example, exploiting customers and consumers (e.g. by charging prices above normal competitive levels) or limiting production to the ultimate prejudice of consumers (e.g. by obstructing attempts to scale up production to face shortages of supply).

On this note, the **CPC** will closely monitor the processes and intervene in any attempt for market cartelization or abuse of dominant position with the aim of gaining profits from the current situation. The **CPC** will also place emphasis on the pharmaceutical, food and commerce markets.

Other Considerations

The **CPC** is showing readiness to offer timely informal guidance on specific initiatives that the market participants intend to undertake in order to guarantee the legality of these initiatives in the conditions of crisis caused by the spread of COVID-19 and to achieve maximum legal certainty and foreseeability of the enforcement measures.

Cyprus

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Competition Authority:

- The Commission for the Protection of Competition ("**CPC**") (<http://www.competition.gov.cy/>)
- The Consumer Protection Service of the Ministry of Energy, Commerce and Industry (<http://www.consumer.gov.cy/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No. Clearance of Phase 1 notifications (including those for which an RFI is sent out to the parties) is currently granted within the one-month statutory deadline.

Investigations/Litigation

Filings

Filings continue to be made, both in hard copy and electronically, as before, but the **CPC**'s premises are closed to the public, until further notice. All hearings are currently held at a specially designated location to accommodate physical distancing requirements.

Delays/Other Considerations

No significant delays have been observed in the usual operation of the **CPC**.

Communications With the Regulator

How are filings made/meetings handled?

Filings continue to be made, both in hard copy and electronically, as before, but the **CPC**'s premises are closed to the public, until further notice.

All hearings are currently held at a specially designated location to accommodate physical distancing requirements.

Other Antitrust Issues

Competitor Collaborations

The European Competition Network ("**ECN**"), which comprises all the national competition authorities of the European Union and the Directorate-General for Competition of the European Commission, issued a [joint statement](#) on the application of competition law during the present crisis, which stipulates that it shall not intervene against necessary and temporary measures put in place in order to avoid a shortage of supply, such as collaboration between competitors, in order to ensure the supply and fair distribution of scarce products to all consumers. However, the **ECN** also stipulates that it will not hesitate to take action against companies taking advantage of the current situation by cartelizing or abusing their dominant position, so that it may protect access to essential products intended to protect the health of consumers in the current situation (e.g. face masks and sanitizing gel) by ensuring that they remain available at competitive prices.

Price Gouging

The Minister of Health has fixed maximum prices for numerous products, including antiseptic gels, disinfectant sprays, hand sanitizers, masks and thermometers.

Misleading Advertising

The regulatory authority, the Consumer Protection Service ("**CPS**") has issued a statement, warning consumers as to the emergence of misleading online marketing practices. The **CPS** invited consumers to be overly diligent as regards such practices, mentioning the following as indicative:

- Advertisements that use wording or imagery that suggests, directly or indirectly, that a product is capable of preventing or curing COVID-19.
- Advertisements that refer to doctors, healthcare professionals, experts or other unofficial sources, who suggest that a product is capable of preventing or curing COVID-19.

- Advertisements that, either on a name-basis or by using a mark, refer to governmental authorities, experts or international organizations who, allegedly, support the preventive or curative properties of the product, without providing references to official certificates or websites.
- Advertisements that include statements such as “available only today!” “running out soon!” or “the lowest price in the market”, “the only product that cures/prevents COVID-19” or similar statements.
- Advertisements for the sale of products at a price which is higher than the market average, by arguing that such products are capable of preventing or curing COVID-19.

Finally, the **CPS** invited consumers to stay informed from competent governmental authorities on all matters relating to COVID-19.

Enforcement Priorities

No pertinent announcements have been made indicating a change in enforcement priorities.

Other Considerations

N/A

Denmark

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Competition Authority:

- The Danish Competition and Consumer Authority (“**Authority**”) (<https://www.en.kfst.dk/>)
- The Danish Competition Council, which is a department under the Danish Competition and Consumer Authority (<https://www.en.kfst.dk/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No: the Danish Competition and Consumer Authority has suspended their time limits for processing of merger control until August 17, 2020. However, as of now, the suspension has not been extended further.

Investigations/Litigation

Filings

Filings are made electronically - which is not specific to the COVID-19 outbreak.

Delays/Other Considerations

The Danish Competition and Consumer Authority encourages companies wishing to merge to contact the agency well in advance. The agency works to ensure that normal deadlines are met as far as possible. Even though the time limits were suspended, the notified mergers were usually cleared within the normal time limits.

Communications With the Regulator

How are filings made/meetings handled?

Filings are made electronically, and meetings are partly held by telephone or other electronic devices. However, physical meetings are held, if the circumstances allow it. The COVID-19 outbreak does not seem to slow down the process significantly.

Other Antitrust Issues

Competitor Collaborations

The Danish Competition Council has [announced](#), that they recognize, that companies might need to cooperate to limit the adverse effects of the economic downturn and to ensure consumer protection and supply. Therefore, a temporary and necessary cooperation, that does not go beyond what is required to achieve the objective, can be permitted under the competition rules.

This type of cooperation entails efficiencies for consumers that exceed the negative effects arising from the possible restriction of competition, therefore the cooperation may be permitted under the competition rules.

Price Gouging

The **Authority** will increase its focus on dominant firms, that raise prices on essential products unreasonably. Thus, the **Authority** will be targeting such cases.

The **Authority** allows companies to set maximum prices on their products, which ensures, that retailers will not take advantage of the situation and raise prices to an unreasonable level.

Misleading Advertising

The Danish Environmental Protection Agency has increased its focus on advertising and sales of hand sanitizers, since some companies have advertised and sold hand sanitizers, which did not function properly.

Enforcement Priorities

The Danish Competition and Consumer Authority will not actively pursue cases of necessary and temporary cooperation. The **Authority** notes, that in its prioritization of cases it will consider whether there are any such considerations, which are worthy of protection, and whether there has in fact been "no other way around".

Other Considerations

The Danish Competition and Consumer Authority states, that companies and other operators can contact the Authority and receive informal guidance about how to maneuver without conflicting with the rules. Thus, to a certain extent, the Authority provides informal guidance on the competition rules, which may be a big advantage for companies venturing into crisis cooperation to limit the adverse effects of the crisis.

Estonia

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Competition Authority: The Estonian Competition Authority (“**ECA**”) (<https://www.konkurentsiamet.ee/en>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No indication of delays currently.

Investigations/Litigation

Filings

The **ECA** has resumed normal work from the office. New filings are accepted.

Delays/Other Considerations

N/A

Communications With the Regulator

How are filings made/meetings handled?

Physical premises are open. For meetings, the **ECA** practices social distancing as far as possible within its premises (there is sufficient space for keeping a 2 meter distance within the meeting rooms for meetings with 6-8 participants and a bit more if not everybody needs to stay around the table).

It is customary in Estonia to submit filings by e-mail/with electronic signatures. This has been the standard way of submission of filings also prior to COVID-19 outbreak, we expect this to be the standard going forward as well. If requested by the participants in the meeting, the **ECA** is ready to conduct video meetings (video meeting platform to be agreed with the **ECA** in advance).

Other Antitrust Issues

Competitor Collaborations

The **ECA** published a [joint statement](#) made by the European Competition Network on the application of competition law during the Corona crisis on April 23, 2020, which states that the national competition authorities will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply.

The **ECA** elaborated that the current aim is not to prevent co-operation between competitors that need to overcome supply difficulties or similar problems caused by the crisis. However, the **ECA** will not hesitate to act against companies taking advantage of the current situation by cartelizing or abusing their dominant position. If companies have doubts about compliance of such cooperation initiatives with competition law, the **ECA** encourages companies to contact it so it can assess such cooperation as a matter of urgency and, if necessary, develop suitable solutions in collaboration with the companies.

Price Gouging

There have not been any COVID-19 specific additional powers to the **ECA**. In addition to its powers as a competition regulator, the **ECA** acts on a regular basis as a sector regulator for the energy, water, post and railway industries and has regular price regulator powers in relation in these sectors.

Misleading Advertising

N/A, as this is not in the competence of the **ECA**.

Enforcement Priorities

Based on unofficial contacts, the **ECA** is ready to handle any COVID-19 related requests of the undertakings. Other than this, the **ECA** will continue work as normal. The **ECA** has not in general published its enforcement priorities.

Other Considerations

N/A

Finland

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Competition Authority: The Finnish Competition and Consumer Authority Market Court (“**FCCA**”) (<https://www.kkv.fi/en/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

Not officially, but the **FCCA** has warned parties that they should prepare for the eventuality of delays. Parties preparing filings are requested to be in contact with the **FCCA** Merger Control Unit as early as possible. Parties are encouraged to delay filing if feasible. The **FCCA**'s registry is open but all filings are requested to be made electronically. Any submission of a filing (or related materials) is requested to be agreed on in advance.

Approximately six months into the pandemic, the **FCCA** has continued to function normally and matters are being dealt with according to the normal procedural framework. There is a slight tendency for procedural timelines to stretch (e.g. merger control second phase), but no clear evidence that this would be based on the COVID-19 circumstances.

Investigations/Litigation

Filings

Yes, all filings have been requested electronically.

Delays/Other Considerations

Delays are envisaged but already fixed or judicial procedural deadlines are not affected.

Communications With the Regulator

How are filings made/meetings handled?

The **FCCA** has effectively closed its offices and is conducting all communications and meetings digitally.

The Market Court is still open but physical hearings are not taking place. In urgent matters, hearings may take place by videoconference.

Other Antitrust Issues

Competitor Collaborations

The **FCCA** issued [a statement](#) on March 23, 2020, noting that the **FCCA** will take into account the exceptional circumstances caused by COVID-19 when applying the *Competition Act*. The **FCCA** noted in particular that "*companies may need to work together to ensure adequate supply or the equal distribution of products to all consumers*" and that the "**FCCA will not intervene in measures that are necessary to ensure the sufficient availability of products.**" Companies considering such necessary measures, are encouraged to contact the **FCCA**. On the other hand, the **FCCA** has made it clear that they will be adamant in enforcing of the cartel rules and abuse of dominance restrictions, despite the current circumstances. The **FCCA** has also underlined that it will comply with the [policy](#) outlined by the European Competition Network.

On April 9, 2020 the **FCCA** followed up with a more detailed [statement](#), covering in particular cooperation in the supply of medical products and protective gear. The **FCCA** underlined that it will not, in principle, stand in the way of such cooperation under the antitrust rules. Moreover, the **FCCA** noted that exceptional circumstances may warrant the rules on direct procurements under the *Public Procurement Act* to be relaxed as well as the rules on competition neutrality.

Price Gouging

No particular statements as of yet, but the **FCCA** has made it clear that "*Even during the state of emergency, the **FCCA** will resolutely intervene in cartels between companies, which aim to raise prices to the detriment of consumers. The same will apply to abuse of a dominant position, which a company uses to exclude competitors from the market or to charge manifestly unfair prices*".

Misleading Advertising

The **FCCA** has, on March 30, 2020, made [a statement](#) regarding the policing of COVID-19 bred scams and misleading marketing.

Enforcement Priorities

The **FCCA** has made it clear that it will accommodate pro-competitive collaborations to support delivery of goods and services, particularly for the purposes of supply of medical products and that the **FCCA** will take a circumstances-specific approach to enforcement.

Other Considerations

N/A

Germany

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Competition Authority: The European Commission Directorate – General for Competition (“**Commission**”)
(https://ec.europa.eu/competition/index_en.html)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

The **FCO** [informed](#) on March 17, 2020 that its operating capacity is currently ensured until further notice. The **FCO** will inform about changes on its [website](#) and on Twitter (@Kartellamt) if necessary. On May 29, 2020 the legislator [extended](#) Phase I investigations from one to two months and

Phase II from four to six months (including Phase I) applicable for concentrations notified between March 1, 2020 and May 31, 2020 which have not been cleared so far. For all filings made as of June 1, 2020 the usual deadlines apply again, i.e. one month for Phase I and four months (including Phase I) for Phase II.

Investigations/Litigation

Filings

Filing of appeals against **FCO** decisions with the competent Higher Regional Court of Düsseldorf as well as court filings in any other antitrust litigation (e.g. antitrust damage claims) still have to be made by the usual means (hard copy letters or electronically by using the special electronic lawyer's mailbox).

Delays/Other Considerations

- No, with regard to investigations: The **FCO** informed on March 17, 2020 that its operating capacity is currently ensured until further notice. The **FCO** will inform about changes on its website and on Twitter (@Kartellamt) if necessary.
- Not anymore, with regard to litigation: After having had postponed oral hearings after the outbreak of COVID-19, all German courts have returned the ordinary course of business.

Communications With the Regulator

How are filings made/meetings handled?

Filings with the **FCO** still have to be made by hard copy letters or electronically as described by the **FCO** on its [website](#). Please note that communication via email is generally only possible for informal contacts. Deadlines can still be kept by using fax in advance. Besides, the **FCO** can be contacted via email, phone, fax and by mail as usual. The **FCO** has set up [separate email addresses](#) for each of its decision divisions to ensure continued availability of its officials working from home.

Recently, **FCO** started to meet with parties in person again, however, only in exceptional cases. Preferably, meetings can be conducted via teleconference. For security reasons the **FCO** only accepts conference calls via servers based in Germany.

Other Antitrust Issues

Competitor Collaborations

The **FCO**'s president Andreas Mundt [explained recently](#) that antitrust law allows for collaboration among competitors if there are “*good reasons*” due to COVID-19 and if collaboration is temporally limited. Furthermore, the Federal Minister for Economic Affairs and Energy, Peter Altmaier, announced that cooperation in the food industry and among retailers must be possible to ensure the necessary supply of the population. The **FCO** currently liaises with several companies, associations and politicians about plans for cooperation in production to avoid bottlenecks, including contingency plans in the event that producers fail and cooperation on issues such as warehousing and redistribution between companies to avoid or eliminate supply bottlenecks. This is in line with the **FCO**'s joint statement with the other European competition authorities of March 23, 2020 that European competition authorities will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. In case of doubts companies should informally contact the **FCO**.

On June 9, 2020, the **FCO** [published](#) a statement stating it would refrain from examination under competition law in more detail of coordinated behavior to overcome problems in the automotive industry sector. However, such measures must comply with competition law requirements as set out by the **FCO** in more detail and must be explicitly limited to a certain period of time.

Price Gouging

The **FCO**'s joint statement with European competition authorities of March 23, 2020 explains that products relevant for consumer health (e.g. masks or disinfectants) must be provided for competitive prices. The **FCO** will therefore closely monitor if companies abuse the current situation by anticompetitive behavior. Against this background the joint statement reminds that manufacturers can set maximum prices which might help to limit unjustified price increase at the distribution level.

Misleading Advertising

N/A

Enforcement Priorities

The **FCO**'s president Andreas Mundt stated it will not tolerate conduct by undertakings that opportunistically seek to exploit the crisis as a cover for anti-competitive collusion or abuses of their dominant position. At a recent press conference, Mundt stated that he was fairly certain that the **FCO** will soon start new inspections at companies. In light of COVID-19, the **FCO** is currently working on far-reaching protection measures for such inspections.

Other Considerations

The legislator [waives interests](#) on cartel fines until June 30, 2021 for such undertakings that cannot reasonably be expected, in view of their economic circumstances, to pay a fine immediately.

Greece

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Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

During the period of full lockdown in Greece (March 23 to May 4, 2020), as per the related **HCC**'s press release (March 23, 2020), legally binding deadlines continued to apply to **HCC**'s work and the **HCC** continued to exercise its functions, examine the cases brought before it - including mergers - and make decisions - through remote working. At the same time, it continued to check timelines, providing, where permissible, extension of deadlines. For instance, **HCC** cleared (a) on April 21, 2020 the “CRETA FARMS” and its subsidiary “TETO-FARM”/ “BELLA BULGARIA” (through subsidiary “IMPALA HELLAS”) concentration, (b) on April 15, 2020 the acquisition of control of doValue S.p.A over Eurobank FPS Loan and Credit Claim Management Company SA and (if doValue S.p.A. exercises the relevant option right) over “REAL ESTATE MANAGEMENT SA”, and (c) on March 27, 2020 two concentrations, the OCEAN and A. Panagopoulos acquiring joint control over PEARL Ltd as well as the change from joint to sole control by the company ANDROMEDA SEAFOOD SOCIEDAD LIMITADA over PERSEUS SPECIALTY FOOD PRODUCTS. Nevertheless, there was skepticism about merger control deadlines including the implication of no bailiff services due to COVID-19. Our firm was engaged that period in the initiation of Phase II where we came to a common understanding about the servicing of the respective formal act and we also discussed the case

where participants in market surveys delay their replies and how this will impact the duration of Phase II. However, no official position was taken on the extension of deadlines for both Phase I and Phase II proceedings during such period. The **HCC** did not come out with any similar to DG COMP warning towards undertakings not to proceed to filings if not very urgent; having said that it should be noted that the *Greek Competition Law Act* provides for a 30 day deadline to notify as of the triggering event/transaction (whereas no deadline exists under *Council Regulation (EC) No 139/2004* albeit the mandatory stand still obligation).

Following the period of full lockdown, **HCC** exercises its functions, applying the normal deadlines.

Investigations/Litigation

Filings

Submission of documents before the **HCC** by physical presence or post was not possible during the lockdown period and undertakings and citizens could only e-file them instead. The e-filing is no longer a one-way street, but currently remains the preferred one.

Delays/Other Considerations

The **HCC**, further to its press release of March 23, 2020, continued to exercise its enforcement powers by conducting investigation measures including on-site inspections wherever and whenever necessary. It is noteworthy that in the context of the COVID-19 pandemic, the **HCC** carried out on April 22, 2020 dawn raids at undertakings and associations of undertakings active throughout Greece in the food sector, and particularly in the production of citrus fruits.

At the same time, **HCC** initiated on March 11, 2020 a new sector inquiry into e-commerce for which the public consultation (teleconference) was launched on March 31, 2020. A second sector inquiry is ongoing into production, distribution and marketing of basic consumer goods of 11 product categories in total and in particular food products, cleaning and personal hygiene products; the **HCC** completed and published on April 13, 2020 the *Interim Report* regarding this sector inquiry while the public consultation (teleconference) was launched on July 3, 2020.

With regard to potential sanctions to be imposed in imminent antitrust decisions, our firm has noted to the **HCC** that they should be inspired by the Italian **NCA** (see Telecom Italia abuse of dominance case) and explicitly defer the payment of fines. Till today the **HCC** has refused to interfere with the modalities of payment (arguing that this is an issue for the Tax Authorities collecting the respective fines).

Communications With the Regulator

How are filings made/meetings handled?

Filings can now be made both electronically and physically. During the full lockdown period filling to the **HCC** was made electronically. The **HCC**, further to its press release of March 23, 2020 applied a teleworking regime with just some minimum resources at the premises, that is no longer applicable

Other Antitrust Issues

Competitor Collaborations

The **HCC** released a [statement](#) on March 23, 2020 declaring its support to all economic operators and transmitting the joint statement on behalf of the European Commission and the European Competition Network (“**ECN**”) which addressed key considerations related to competition law enforcement during and after the COVID-19 pandemic; recognizing the ability of **NCA**s to not intervene against good faith efforts and limited collaborations among competitors in order to provide needed goods and services, while urging member **NCA**s to remain vigilant to anti-competitive conduct. Nevertheless, in a related [announcement](#), the **HCC** made clear that it will strictly prioritize the examination of any cartel-like activity brought to its attention, whether following a complaint, an application for leniency by a cartel participant or otherwise and will impose heavy administrative sanctions on the undertakings engaging in such anti-competitive practices.

Price Gouging

The **HCC** published a [press release](#) on March 16, 2020 as regards vertical restraints, announcing that it will focus on hardcore vertical restraints, such as resale price maintenance (“**RPM**”), setting fixed or minimum resale prices, in view of supply-demand upset caused by the pandemic.

Misleading Advertising

The **HCC** has not published any relevant press release and will not focus on this matter.

Enforcement Priorities

The **HCC** issued on April 15, 2020 a press release regarding “*Actions taken by the HCC in the context of the enforcement of competition rules in special economic and social conditions*” pointing out three actions:

- **food industry:** upon **HCC**'s instructions the Directorate-General for Competition and the Prefecture concerned carried out an immediate unannounced on-site inspection at the premises of undertakings active in the food industry and issued a relevant Announcement. The **HCC** carried out on April 22, 2020 dawn raids at undertakings and associations of undertakings active throughout Greece in the food sector. On July 11, 2020 the **HCC** published the interim findings of this in-depth investigation on the markets for basic food commodities.

According to such findings, during the whole period of the COVID-19 pandemic outbreak in Greece, the median price of white milk and flour-meal for all supermarkets was relatively stable;

- **ex officio investigations mainly on food products:** the **HCC** decided to initiate ex officio investigations in sectors where there were signs raising competition concerns in companies active throughout the product value chain, mainly for food products (ex, animal feed, cereals, milk, eggs and chicken) and may extend its investigations also to other sectors. The **HCC** has sent questionnaires and carried out on-site inspections, with the assistance of local authorities throughout Greece, at companies and business associations; and
- **healthcare material:** the filling in of questionnaires and the submission of invoices and other material through a special online form, pursuant to the preliminary investigation initiated by the **HCC**, following complaints from consumers and media reports on price increases and shortages in healthcare materials, have been completed. The **HCC** has investigated more than 3,000 companies active in the production, import and marketing of healthcare materials in order to decide whether the conditions required for launching an ex officio investigation to find any antitrust violations are in place. On June 26, 2020 the **HCC** published the interim findings regarding said investigation. According to such findings, an increase was observed in companies that are active in the retail market for all healthcare materials and products at issue. The sharp rise in demand for these products has been accompanied by an increase in the number of businesses that are marketing or selling these products, suggesting a healthy market response. On the basis of the median sale prices of all products, a sharp increase in the median sale price was observed, especially of disposable surgical masks, from February 2020 onwards; a slight increase in the median price of antiseptic gels and disposable gloves; and a marginal drop in the price of antiseptic wipes.

Other Considerations

The **HCC**, on March 20, 2020 set up a [COVID-19 Competition Task Force](#). Its task is to provide businesses and citizens with information about the application of competition rules in the form of announcements and Q&As, inform the public about the investigations carried out by the **HCC** in currently crucial business sectors and the **HCC**'s procedural matters in the present context as well as post the actions of other **NCA**s and the European Commission on its website. On May 15, 2020 **HCC**'s press release presented said Task Force initiatives during the coronavirus outbreak.

Hungary

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Competition Authority: The Hungarian Competition Authority (“**HCA**”) (<https://www.gvh.hu/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No.

Investigations/Litigation

Filings

Following the Hungarian Government terminating the “state of danger” as of June 18, 2020, (which had been declared due to the COVID-19 pandemic) the **HCA** returned to its usual methods of communications and way of filings. The filings can be made through electronic means, in writing or in person. The **HCA** provides electronic online forms for merger filings which are available on its official webpage. The suspension of the personal delivery of documents addressed to the Competition Council was also lifted. The processing of filings lodged via the official portal of the **HCA** is ensured. With regard to the final and binding decisions of the **HCA**, administrative lawsuits can be initiated by filing a statement of claim electronically by using the relevant form available on the **HCA**’s webpage or in writing.

Delays/Other Considerations

As the **HCA** returned to its normal proceedings, there are no other considerations to be taken into account.

Communications With the Regulator

How are filings made/meetings handled?

The **HCA** returned to its usual methods of communications and way of filings. The filings can be made through electronic means, in writing or in person. The **HCA** provides electronic online forms for filings which are available on its official webpage. The **HCA** holds personal meetings and hearings according to its general rules.

Other Antitrust Issues

Competitor Collaborations

The European Competition Network (of which the **HCA** is also a member) ("**ECN**") released a [joint statement](#) on March 23, 2020 (i) recognizing that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers, and (ii) declaring that the **ECN** will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. The **ECN** also stated that considering the current circumstances, such measures are unlikely to be problematic, since they would either not amount to a restriction of competition under *Article 101 TFEU/53 EEA* or generate efficiencies that would most likely outweigh any such restriction.

If companies have doubts about the compatibility of such cooperation initiatives with EU/EEA competition law, they can reach out to the Commission, the EFTA Surveillance Authority or the national competition authority concerned (e.g. the **HCA**) any time for informal guidance. The International Competition Network ("**ICN**") (of which the **HCA** is also a member) released a similar [statement](#) in April 2020. The European Commission also released a similar [communication](#) on April 8, 2020 focused on possible cooperation projects of the undertakings addressing the shortage of essential products and services.

Price Gouging

According to the **ECN**'s [joint statement](#), it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current situation (e.g. face masks and sanitizing gel) remain available at competitive prices. The **ECN** will therefore not hesitate to take action against companies taking advantage of the current situation by cartelizing or abusing their dominant position. In this context, the **ECN** also pointed out that the existing rules allow manufacturers to set maximum prices for their products which could prove useful to limit unjustified price increase at the distribution level.

Misleading Advertising

The **HCA** actively monitors advertisements containing false and/or misleading claims related to COVID-19. In this regard, the **HCA** has already (i) published an [information guide](#) for both the consumers and advertisers, (ii) summarized the [findings](#) of its investigation of online advertisements of certain products claiming unproven anti- COVID-19 effects, and (iii) [initiated investigation](#) against certain advertisers.

Enforcement Priorities

The investigation of anti-competitive conducts related to COVID-19 remained the **HCA**'s enforcement priority, in particular unfair commercial practices, cartels and abuses of dominant positions.

Other Considerations

Consumer complaints related to COVID-19 can be submitted to the **HCA** via the following e-mail address: covid19konzultacio@gvh.hu.

The President of the **HCA** was appointed as a member of Economy Protection Operational Group established by the Hungarian Government which identifies and eliminates the administrative rules and bureaucratic burdens that slow down the economy and hinder the operation of enterprises due the pandemic.

Iceland

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Competition Authority: The Competition Authority ("**ICA**") (<https://en.samkeppni.is/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

The **ICA** has stated that they are conscious of the importance of expediting merger investigations during crises and it will endeavor to do so in the current situation. They have however stated that they will prioritize cases that are relevant to the response to COVID-19 and will accordingly have to delay the procedures of some other cases and reconsider their applicability. It is thus foreseeable that the waiting period could be increased in certain cases.

Investigations/Litigation

Filings

The **ICA** has requested that all letters and documents are delivered electronically, i.e. via email. There is however no electronic filing system.

Delays/Other Considerations

As per above, the **ICA** will have to delay the procedures of some cases and reconsider their applicability and has requested that parties which are planning to send complaints or merger notifications to the **ICA**, which need not be expedited because of COVID-19, delay such notifications while the pandemic is at its peak.

Communications With the Regulator

How are filings made/meetings handled?

The **ICA** has requested that letters and documents are delivered electronically, i.e. via email. No meetings are held at the **ICA** premises, unless absolutely necessary. Online conferences are held instead.

Other Antitrust Issues

Competitor Collaborations

The **ICA** has granted several exemptions on the account of COVID-19, and has in that regard emphasized that:

- sector regulators on the relevant market are given access to the cooperation between competitors. As a result, the regulators are able to monitor competitor cooperation and provided with an overview of the COVID-19 response on the market.
- Applications for exemptions concerning the COVID-19 will be processed by the **ICA** in less than 48 hours from the receipt of the application.

The **ICA** has, as of March 30, 2020 granted several such exemptions, concerning e.g. travel agencies, smaller pharmacies, petrol companies and lenders.

Price Gouging

The **ICA** considers it extremely important to ensure that products considered essential to protect the health of consumers (e.g. face masks and sanitizing gel) remain available at competitive prices, and has invited consumers, undertakings and the public sector to report to the **ICA** all indications of unreasonable increases in prices.

Misleading Advertising

The Consumer Authority is responsible for possible infringements regarding misleading advertising. However, they have not provided any specific guidelines concerning COVID-19.

Enforcement Priorities

The **ICA** has provided that they will prioritize cases that are relevant to the response to COVID-19.

Other Considerations

N/A

Ireland

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Competition Authority: The Competition and Consumer Protection Commission (“**CCPC**”) (<https://www.ccpc.ie/>)

Merger Review

New Filings Accepted?

Yes. However, on March 18, 2020, the **CCPC** published a statement on its website outlining that it is “*encouraging notifying parties where possible to delay filing planned merger notifications until further notice*” and provided details of a temporary process for the electronic notification of mergers.

Waiting Period Delays?

The **CCPC** has largely reviewed notified mergers and acquisitions remotely since March 2020. The **CCPC** has adapted to its new way of working and the implementation of its temporary merger notification process has not led to significant delays in practice.

Investigations/Litigation

Filings

The **CCPC** has not published any guidance on how the COVID-19 outbreak will affect ongoing investigations or its approach to prioritizing new enforcement cases. In Ireland, civil competition cases (including enforcement and follow-on actions) are heard predominantly before the High Court. In response to the COVID-19 outbreak, the Courts Service of Ireland has scaled back the operation of the Courts. As the economy slowly reopens, the Courts are introducing various measures to ensure access to justice while respecting public safety and Government public health advice.

Delays/Other Considerations

Measures taken by the Courts Service to scale back the work of the courts and decrease the numbers needed in Court, such as the introduction of ICT infrastructure to facilitate remote court hearings, may lead to delays, particularly in non-urgent cases.

Communications With the Regulator

How are filings made/meetings handled?

In relation to merger control, the **CCPC** has expressed a preference for digital notifications. As of March 18, 2020, the **CCPC** has requested that merger notification forms and all supporting documents required by the **CCPC** be submitted in electronic format. No guidance has been issued on how meetings will be handled but in practice all meetings are conducted remotely, including in relation to both merger and antitrust cases.

Other Antitrust Issues

Competitor Collaborations

On March 23, 2020, the European Competition Network ("**ECN**") (a network of the Directorate General for Competition of the European Commission and the 27 national competition authorities across the EU, including the **CCPC**) issued a joint statement clarifying how competition rules apply in the context of the crisis. In its joint statement, the **ECN** acknowledged that *"this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers"* and further states that *"in the current circumstances, the **ECN** will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply"*. On March 25, 2020, the **CCPC** published the **ECN** joint statement on its website, signaling that it will approach competition enforcement in the context of the crisis in line with the principles set out in the joint statement. If companies have doubts about the compatibility of such cooperation initiatives with EU competition law, the **ECN** joint statement noted that they can reach out to the European Commission or their national competition authority for guidance.

Separately, on July 1, 2020, the **CCPC** issued a warning to businesses that, despite economic challenges, they must act independently in their commercial decisions, particularly when setting prices and charges. This warning was prompted by engagement between the **CCPC** and a number of trade associations after they made public statements concerning pricing. The **CCPC** clarified that any new prices and charges must adhere to competition and consumer protection law.

Price Gouging

There have been no specific measures taken at a national level but in the **ECN** joint statement, referenced above, the **ECN** warns that action will be taken against companies that take advantage of the current circumstances. It states that *"it is of utmost importance to ensure that products*

considered essential to protect the health of consumers in the current situation (e.g. face masks and sanitizing gel) remain available at competitive prices. The ECN will therefore not hesitate to take action against companies taking advantage of the current situation by cartelizing or abusing their dominant position.”

Misleading Advertising

On March 20, 2020, the **CCPC** published a statement on its website reminding businesses that consumer protection law requirements remain in force during the COVID-19 outbreak. The **CCPC** said that it has been actively monitoring compliance with current consumer protection law requirements, including commercial practices which are misleading to consumers, such as making a representation that a product is able to cure an illness when it cannot.

The **CCPC** stated that it is monitoring websites and where it identifies issues, it will take appropriate action to protect consumers. The **CCPC** also encouraged any consumer that encounters misleading practices or experiences difficulties with any online trader offering health products for sale to contact the **CCPC** so they can advise them of their rights.

In May 2020, the **CCPC** published specific guidance for business on supplying PPE for consumer use during the COVID-19 crisis and new product safety guidance for COVID-19 consumer face masks in June 2020.

Enforcement Priorities

During the outbreak, the focus is on ensuring essential goods and services remain available at competitive prices. As regards cooperation between businesses, the **ECN** joint statement clarifies that the **ECN** will use existing mechanisms, and in particular the efficiency conditions, to take account of the current circumstances in deciding whether to take enforcement action. The **ECN**'s view is that “*necessary and temporary measures put in place in order to avoid a shortage of supply*” are unlikely to be problematic in the current circumstances as they would either not amount to a restriction of competition or would generate efficiencies that would outweigh any restriction of competition.

At a national level and as the economy slowly reopens, the **CCPC** is focused on ensuring businesses act independently in their commercial decisions, particularly when setting prices and charges.

Other Considerations

N/A

Italy

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Competition Authority: The Italian Competition Authority (“ICA” or “Authority”) (<https://en.agcm.it/en/>)

Merger Review

New Filings Accepted?

Yes. Article 75 of the *Law Decree no. 104/2020* (“**August Decree**”, to be converted into law by October 13, 2020) provides that – until December 31, 2020 – mergers without an EU dimension and involving companies in sectors of general economic interest or labor-intensive sectors are not subject to the ICA’s clearance, provided that their balance sheet has been at a loss for three years and that they could be destined to closure also due to the COVID-19 emergency. Such companies are in any case subject to the obligation to notify the merger to the ICA, together with the proposal of behavioral remedies suitable to prevent the risk of price fixing or other burdensome contractual conditions as a result of the merger.

Waiting Period Delays?

No.

Investigations/Litigation

Filings

Yes.

Delays/Other Considerations

Civil and administrative proceedings/deadlines are suspended until May 12 and 15, respectively.

Communications With the Regulator

How are filings made/meetings handled?

All the administrative proceedings' deadlines have been suspended from February 23 until May 15, 2020. This suspension, together with a significant **ICA**'s workload due to the numerous COVID-19 related proceedings opened in the last months, are causing some extensions to the terms of conclusion of the cases pending before the **Authority**.

Filings are to be made electronically. Typical 'physical' tasks such as access to the proceedings' file are also continuing to be fulfilled electronically. Courts may adopt special measures to carry out proceedings and court activities.

Other Antitrust Issues

Competitor Collaborations

On April 22, 2020, the **ICA** issued a *Communication on Cooperation Agreements and the COVID-19 Emergency* ("**Communication**") explaining the general criteria for the assessment of cooperation agreements to tackle issues linked to the shortage, distribution and transport of essential goods and services in the emergency phase, in particular in the pharmaceutical, agri-food and health sector. Indications are provided informally or, at the Authority's discretion, through comfort letters. At the same time, the **ICA** does not tolerate any kind of misuse of this exceptional procedure aimed at using the crisis as a 'cover' for non-essential restrictions, such as price fixing or the exchange of commercially sensitive information. This new procedure is in force from April 24, 2020 until further notice. Any request for information can be sent to the following email address: accordi-cooperazione-COVID@agcm.it.

So far, the **ICA** applied the **Communication** in only two instances regarding cooperation agreements between companies for the distribution of masks and a moratorium scheme for consumer credit.

Price Gouging

The **Communication** points out that existing rules on vertical agreements allow undertakings to set maximum prices for their products and that such agreements could be useful in order to limit unjustified price increases at the distribution level.

Since March 2020 the **ICA** opened several proceedings for unfair commercial practices, some of which concerning also alleged price gouging re: face masks and sanitizing gel sold online (see e.g. [PS11736](#), [PS11734](#), [PS11716](#) and [PS11717](#)). Furthermore, in May 2020 the **ICA** launched a [preliminary investigation](#) by sending requests for information to numerous operators in the large-scale distribution to acquire data on the dynamics of retail prices and wholesale purchase prices of basic foodstuffs, cleansers, disinfectants and disposable gloves, in order to identify any price gouging.

Misleading Advertising

Since March 2020 the **ICA** opened many proceedings regarding alleged misleading and aggressive advertising on the web of products presented as effective against the COVID-19 (see the latest relevant opening decisions in the proceedings [PS11824](#), [PS11771](#), [PS11752](#)) and of face masks different from those advertised online (in terms of quality, certifications, origin and delivery timing – see [PS11736](#)).

Enforcement Priorities

The **ICA** has not clarified specific enforcement priorities, apart from its general willingness to continue to monitor the market focusing its attention on operators active in e-commerce who adopt unfair and misleading behavior.

Other Considerations

In many of the mentioned cases, the **ICA** provisionally ordered the immediate end of the conduct and sometimes even the darkening of the related e-commerce site. Furthermore, in [one case](#), the **ICA** also invited major search engines to remove from the results page any websites that market a drug deceptively advertised as effective against COVID-19.

Further to price gouging and misleading advertising concerning medical disposals, in June 2020, the **ICA** launched an [investigation and interim sub-proceedings](#) concerning the online sale of bus tickets on the dates covered by the government measures restricting circulation due to COVID-19 and their subsequent cancellation; quite similarly, in July 2020 the **Authority** [launched two investigation proceedings and two interim sub-proceedings](#) concerning the sale of airplane tickets, which were subsequently cancelled because of COVID-19, although these services were due to be provided at a time when said circulation restrictions would have been no longer in force. Following to the opening of these proceedings, the two involved airlines offered refunds in case of flight cancellations, in line with the **ICA's** [view](#) according to which consumers should be allowed to choose between a monetary reimbursement and other, if any, equivalent compensation arrangements such as vouchers, which should be accompanied by guarantees and instruments to make them more attractive and reliable.

Guernsey and Jersey

Mourant

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Competition Authority:

- Guernsey Competition and Regulatory Authority (“**GCRA**”) (www.gcra.gg)
- Jersey Competition Regulatory Authority (“**JCRA**”) (www.jcra.je/)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No – **GCRA/JCRA** are still turning merger filings around within the 25 day administrative target.

Investigations/Litigation

Filings

It is business as usual to the extent that investigations can be undertaken remotely – **GCRA/JCRA** will ask for electronic submissions and do any hearings by video conference if necessary.

Delays/Other Considerations

N/A

Communications With the Regulator

How are filings made/meetings handled?

Pre-notification discussions will be undertaken by telephone/video conference. Filings will be submitted electronically (as always) and any meetings that need to take place between **GCRA/JCRA** and the parties to discuss a filing will also take place via telephone/video call.

Other Antitrust Issues

Competitor Collaborations

CICRA issued a media release on April 6, 2020 stating its approach to competition law enforcement during the COVID-19 pandemic.

CICRA was very conscious of concerns that competition law enforcement could impede necessary cooperation between businesses to deal with the current crisis and ensure security of supplies of essential products and services, such as groceries. Where agreements are not covered by legal relaxation, **CICRA** confirmed it had no intention of taking competition law enforcement action against cooperation between businesses or rationing of products to the extent that this is necessary to protect consumers – for example, by ensuring security of supplies. At the same time, **CICRA** did note that this is not a license for businesses to exploit the crisis as a ‘cover’ for non-essential collusion. This includes exchanging information on longer-term pricing or business strategies, where this is not necessary to meet the needs of the current situation.

Price Gouging

No specific guidance, actions or orders about price gouging yet. **GCRA/JCRA** is keeping an eye on this and is in contact with both Jersey and Guernsey governments on specific queries.

Misleading Advertising

Misleading advertising is dealt with by the UK Advertising Standards Authority (“**ASA**”). There are no specific plans to co-ordinate action between **ASA** and **GCRA/JCRA** yet but **GCRA/JCRA** is clear that businesses should not be attempting to exploit the current situation and it will take action, within the scope of its powers and in the usual way, if it becomes aware of it.

Enforcement Priorities

For **GCRA/JCRA**, the priority through the coming months is to maintain support for consumers and businesses through the powers and functions assigned to it. It recognizes that the challenges of the COVID-19 are considerable with potentially far reaching and long-term consequences for consumers as well as smaller businesses who are often a significant source of competition and choice. Given this, greater priority will be given to those aspects of its work program that best secure the long-term interests of consumers and sustainable competition. **GCRA/JCRA** will however be

more flexible in its approach, sensitive to the demands placed on businesses at this time. Parties directly affected by changes to its approach will be contacted and informed if, for example, consultations are suspended or deadlines extended.

GCRA/JCRA 's approach to enforcement will be pragmatic during this time. Compliance with regulatory obligations continues to be important. However, **GCRA/JCRA** recognizes that the impact of the COVID-19 means that it will not always be possible to meet these obligations. In such circumstances, industry should take decisions that support critical services, vulnerable people and those who are relying on communications services. **GCRA/JCRA** will support those decisions where they are in the interests of consumers and businesses.

Other Considerations

On April 23, 2020 it was announced that **CICRA** would demerge reverting to being separate authorities in Guernsey (“**GCRA**”) and Jersey (“**JCRA**”), effective from July 1, 2020. Despite the demerger **GCRA/JCRA** maintain the **CICRA** media release dated April 6, 2020 referred to above.

Latvia

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Competition Authority: The Konkurences padome (“**Competition Council**”) (<https://www.kp.gov.lv/en>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No, the **Competition Council** is observing the normal timelines for merger review and has not indicated that any delays might be expected. Furthermore, Latvian merger control rules do not provide for a suspension requirement – closing before clearance is permissible.

Investigations/Litigation

Filings

Although paper filings are still accepted, the **Competition Council** encourages parties to do filings electronically – sent via e-mail where the relevant documents are signed with e-signature.

Delays/Other Considerations

The **Competition Council** has not indicated that there might be delays in any investigations. In relation to litigations, court proceedings are ongoing and have not been suspended.

Communications With the Regulator

How are filings made/meetings handled?

Filings to the **Competition Council** are encouraged to be made electronically, where documents are signed with e-signature. The **Competition Council** remains in operation and the premises are open. In-person meetings are discouraged, but possible.

Other Antitrust Issues

Competitor Collaborations

On March 23, 2020 the **Competition Council** published the **ECN** joint statement on the application of competition law during the COVID-19 crisis (“**ECN Joint Statement**”). According to the statement the authorities understand that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers, thus the authorities will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. The statement also notes that such measures are unlikely to be problematic, since they would either not amount to a restriction of competition under *Article 101 TFEU* or generate efficiencies that would most likely outweigh any such restriction. If companies have doubts about the compatibility of such cooperation initiatives with EU competition law, they can reach out to the **Competition Council** or the Commission (if the cooperation exceeds Latvian borders).

Price Gouging

The **ECN Joint Statement** stresses the utmost importance to ensure that products considered essential to protect the health of consumers in the current situation (e.g. face masks and sanitizing gel) remain available at competitive prices, therefore the **ECN** would not hesitate to take action against companies taking advantage of the current situation by cartelizing or abusing their dominant position.

The **Competition Council** and Consumer Rights Protection Center also issued a [joint statement](#) on March 18, calling on companies to act in good faith during the emergency situation and refrain from applying excessive prices or committing antitrust violations. The Council expressly noted the sudden increase in prices for certain products in retail and stressed any vertical or horizontal arrangements to increase retail prices would be severely enforced under competition law (either under abuse of dominance or restrictive agreements). The Council also stressed that currently there is no need for concern that retailers might run short of food products and other goods, and that competition law rules are certainly not cancelled during the emergency situation.

Misleading Advertising

Misleading advertising infringements toward consumers are enforced by the Consumer Rights Protection Center, which has [stressed](#) that it is focusing on false and misleading advertisements related to COVID-19.

Enforcement Priorities

The **Competition Council** has noted that the two primary concerns during the emergency are cartels and RPM enforcement. At the same time pursuant to the **ECN Joint Statement** the **Competition Council** recognizes that the emergency situation may require cooperation among companies to ensure supply and distribution of scarce products. Insofar such cooperation does not involve hardcore violations, the authority would not actively intervene against such temporary and necessary measures put in place in order to avoid a shortage of supply.

Other Considerations

None.

Lithuania

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Competition Authority: The Competition Council of the Republic of Lithuania (“**Competition Council**”) (<http://kt.gov.lt/en/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

As restrictions related to COVID-19 were lifted, there are currently no delays. If major restrictions are once again enacted, we expect similar rules to the ones during quarantine to be reinstated, e. g. paper filings may be accepted from 9 a.m. until 12 p.m., parties engaged in complex mergers should evaluate whether they will be able to provide information in timely manner and time delays could be possible where market inquiries have to be made.

Investigations/Litigation

Filings

Currently, the **Competition Council** accepts paper filings from 9 a.m. until 5 p.m. and allows documents to be sent electronically.

Delays/Other Considerations

Interviews, meetings or other negotiations are conducted remotely unless otherwise agreed with the **Competition Council**. If major restrictions are once again enacted, we expect similar rules to the ones during quarantine to be reinstated, e. g. paper filings should be accepted from 9 a.m. until 12 p.m., work could be organized from home unless in cases where it is necessary for the **Competition Council** to perform its functions.

Communications With the Regulator

How are filings made/meetings handled?

Paper filings are accepted if they are sent by mail or delivered from 9 a. m. until 5 p. m. Communication to the **Competition Council** may be made electronically through e-mail. Meetings are conducted remotely unless otherwise agreed with the **Competition Council**. The **Competition Council** is replacing hard copy letters with documents signed with electronic signature or e-mails.

Other Antitrust Issues

Competitor Collaborations

Currently, there are no major restrictions enacted in Lithuania, thus usual competition rules apply. However, the **Competition Council** as well as other **ECN** members released a [statement](#) on March 23, 2020 allowing the collaboration between competing suppliers, wholesalers and retailers of daily products which ensures the supply and fair distribution of scarce products to all consumers. Competitors can also inform and cooperate on stores shopping hours, share warehouses or transport if it helps to reach the aforementioned goal. It was also noted that companies should not try to take advantage of the current situation. Similar rules may be applied if major restrictions are once again enacted.

Price Gouging

Application of competition rules in relation to excessive prices is currently the same.

Misleading Advertising

The State Consumer Rights Protection Authority has published a number of articles providing information about common misleading advertisements and warnings to customers and businesses to be careful on the Internet. Additionally, a [general warning](#) has been made that parties may be fined for misleading advertising.

Enforcement Priorities

Currently, usual enforcement priorities are applied.

Other Considerations

If major restrictions are once again enacted, we expect similar rules to the ones during quarantine to be reinstated, e.g. you will not be able to contact the **Competition Council** through the phone.

Netherlands

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Competition Authority: The Authority for Consumers & Markets (“**ACM**”) (<https://www.acm.nl/en>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

The **ACM** has not announced any specific measures for waiting periods, but the **ACM** may contact notifying parties to agree on alternative deadlines. In a [statement](#) issued on March 18, 2020, the **ACM** asked for understanding in cases of delays in procedures and communication. It declared that it will, in turn, be lenient when handling deadlines. Companies should give advance notice to the **ACM** if they anticipate a notification. In a [statement](#) on June 12, the **ACM** mentioned that the coronavirus outbreak, in practice, has hardly led to any delays in the **ACM**'s current proceedings.

Investigations/Litigation

Filings

It is business as usual for **ACM** submissions. Submissions to courts that would ordinarily be sent by post or fax can temporarily also be sent through the 'safe mailing system'. Furthermore, the courts will continue to issue judgments.

Delays/Other Considerations

The deadlines for submitting documents to the courts remain unchanged as much as possible, unless the court reports otherwise. Earlier this year, in-person hearings by courts were suspended until April 28, 2020, which led to delays in judgments. The courts have planned new hearings to try to

make up for cancelled ones. As of May 11, in-person hearings by the courts are – albeit in a limited capacity – possible again. The decision on whether a hearing can take place using a video or audio connection or whether an in-person hearing is necessary is made on a case-by-case basis.

Communications With the Regulator

How are filings made/meetings handled?

The [ordinary requirements](#) for submitting filings to the **ACM** continue to apply, unless parties and the **ACM** have agreed alternative methods. However, the **ACM** has suspended all unnecessary in-person meetings and it is reaching out to the relevant parties to find alternatives, like teleconferencing. Essential in-person meetings at the **ACM** offices have been possible since June 12. Visitors to the **ACM** offices will have to follow [several measures](#)¹ to avoid the spread of the coronavirus. Furthermore, the **ACM** [announced](#) on June 12, that it will resume dawn raids, interrogations and public hearings. The **ACM** has implemented several measures to safely conduct interrogations and dawn raids at companies in a safe manner, and if necessary, searches at private homes.

Other Antitrust Issues

Competitor Collaborations

The **ACM** has [endorsed](#) the joint statement issued by the European Competition Network ("**ECN**") on March 23, 2020, declaring that – while the objective of a level playing field between companies is still relevant – the current extraordinary situation may trigger the need for companies to cooperate to ensure the supply and fair distribution of scarce products to consumers. The **ACM** will not intervene when companies temporarily cooperate, if this cooperation is necessary to ensure the supply and fair distribution of scarce products to consumers. In the case of doubt, companies are encouraged to consult the **ACM** for informal guidance.

Price Gouging

The **ACM** will particularly scrutinize excessive pricing by dominant undertakings of products considered essential in the current situation, such as face masks and other personal protective equipment, disinfectants or ventilators.

Misleading Advertising

The **ACM** [reiterates](#) that, despite the current crisis, consumers must not be misled. Sellers cannot make wrongful claims and must continue to provide correct and realistic information. This information obligation also applies, for example, in situations where products will be delivered later or can no longer be delivered at all due to factory closures. Consumers are invited to report (online) COVID-19-related misleading advertising, including online misleading advertising to the **ACM**'s [ConsuWijzer](#).

Enforcement Priorities

It is likely that the **ACM** will keep prioritizing issues relating to (1) excessive pricing and/or the fair distribution of essential COVID-19 products, and (2) misleading consumers. In line with the previous principles, the **ACM** has already [reviewed](#) COVID-19 voucher schemes in five different sectors.

Other Considerations

N/A

Portugal

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Competition Authority:

- Autoridade da Concorrência (“**AdC**”) (Portuguese Competition Authority, (“**PCA**”))
(<http://www.concorrenca.pt/vPT/Paginas/HomeAdC.aspx>)
- Tribunal da Concorrência, Regulação e Supervisão (“**TCRS**”) (Competition Court, (“**CC**”))
(<https://comarcas.tribunais.org.pt/comarcas/calargada.php?com=santarem>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

Even though the merger control procedures are not suspended, there is a risk of delays. On March 16, 2020, the **AdC** published a press release on its website, as to encourage stakeholders to use the electronic tools, available on its website, including the Electronic Notification System for Mergers (“**SNEOC**”).

In addition, by an e-mail sent to the stakeholders, the **AdC** has clarified the “new communication procedures” to be set in place during the crisis, among which: (i) the use of digital means for all the correspondence addressed to the **AdC**, including postal and that destined to the lodging of any appeals, which should now be sent to adc@concorrenca.pt; (ii) the exclusive use of the **SNEOC** for communications relating to merger filings (including requests for pre notification), only allowing the use of the email referred to above, by the interested third parties, or by the notifiers, when these face difficulties using the **SNEOC**; further emphasizing that (iii) the original paper documents should only be provided at the request of the **AdC**, and that, (iv) face-to-face service remains restricted to exceptional and urgent situations, subject to prior appointment by email.

Investigations/Litigation

Filings

Law no 16/2020, of 29 May has defined the measures necessary for the reopening of the Courts and the end of the suspension of the judicial deadlines, as established by *Law no 1-A/2020 of 19 March*, as amended.

According to Article 6-A of *Law no 1-A/2020*, as amended, hearings and other proceedings that require the examination of witnesses are now to be held in person, with the observance of the maximum number of people and other safety, hygiene and sanitary rules, as defined by the Directorate-General for Health (“**DGH**”). In case it is not possible to hold them in person, appropriate means of distance communication, namely teleconferencing, video call or other equivalent might be used, provided that they are feasible and appropriate and there is no prejudice for the aims of providing justice. The Law safeguards that statements by the accused or the testimony of a witness or party to proceedings must always be made in a court, unless the parties agree otherwise.

Regarding other steps that require the physical presence of the parties, their representatives or other intervenients, the practice of any other procedural acts will take place a) through appropriate means of distance communication, namely teleconference, video call or other equivalent, from court; or b) in person, when it is not possible to hold them under the previous terms, provided that the maximum number of people and other safety, hygiene and sanitary rules defined by the **DGH** are respected. The Law safeguards nevertheless that if parties, witnesses or representatives over 70 years of age or with a risk disease, intervene, the videoconference or video call may be held from their legal or professional domicile.

As for the suspension of judicial deadlines, the Law now lays down the deadlines which are suspended, among which is the statute of limitations' periods related to the cases where proceedings cannot be held by teleconference, video call or other equivalent, also safeguarding the safety of those over 70 years of age or with risky illness.

Delays/Other Considerations

Since the judicial vacations have ended on September 1, there is a risk of delays, given the previous suspension of deadlines and the considerable amount of cases where trials are only now beginning.

Communications With the Regulator

How are filings made/meetings handled?

All correspondence (including invoices or other documents related to the acquisition of goods and services in digital format) which do not concern merger submissions should also be done electronically, by email sent to: adc@concorrenca.pt. The original paper documents should only be provided at the request of the **AdC**.

The face-to-face service, that must be reserved to the urgent and strictly necessary cases, is subject to prior appointment by email, using the address referred to above.

The presentation of exposures and complaints as well as leniency applications should be done using the regular means of communication, these including, respectively, the **AdC** Complaints Portal (through the phone number 217.902.088) and the telephone line 217.902.030.

Other Antitrust Issues

Competitor Collaborations

There are no legal developments so far, aimed at softening or strengthening the rules on competitor collaborations. Therefore, the *Portuguese Competition Act* remains fully applicable.

In this regard, the **AdC** has published a [press release](#), in which it states that it remains vigilant in its mission, particularly in the detection of possible anticompetitive practices that might exploit the current situation to the detriment of people and the economy, through price fixing or market sharing. The **AdC** further calls upon suppliers, distributors and resellers from any sector of the economy, and at any level of the supply chain, including e-commerce, to adopt responsible and lawful business behaviors. It also recalls that any person or company may electronically report suspected anti-competitive practices by using the **AdC** Complaints Portal.

The **AdC** finishes its statement by underlying that it is in permanent coordination with other sectoral regulators and public entities, with a view to proactively detecting competition problems that might further harm the community.

Price Gouging

The Safety Food and Economic Authority (“**ASAE**”) has launched various inspections concerning allegedly illegitimate profit obtained from the sale of goods deemed necessary to prevent and fight the pandemic, notably, personal protective equipment and medical devices (masks, gloves, etc.), as well as biocidal products, such as alcohol, alcohol gel and sanitizing.

In a [press release](#) of March 19, 2020, **ASAE** informed that, as a result of its intervention, the following probes were initiated: (i) a criminal proceeding for illegitimate profit in the supply of alcohol gel, and (ii) two administrative offenses procedures for illegal commercial practices. **ASAE** warned in its statement that it will continue to trigger actions to combat speculation while also ensuring that products on the market meet the requirements, this way ensuring fair competition and the safety of consumers.

Furthermore, and aware of the increasing complexity of the areas and domains subject to inspection, the **ASAE** has made available a form, in order to ensure a quicker and more effective response, as well as to facilitate the submission of complaints. The form is available [here](#).

Following the first investigation referred to above, **ASAE** continues its operations, now with a broader scope of intervention, including the verification of general and specific hygiene requirements by restaurants providing take-away options. In this same context of combating illegitimate profits in essential goods to prevent the spread of COVID-19, **ASAE** has also carried out an inspection at the premises of a retailer of telecommunications and mobile phone accessories. More recently, and following investigations launched by its National Criminal Information and Investigation Unit, **ASAE** also seized a significant number of counterfeit masks, in clear breach of the legal standards.

Misleading Advertising

The Portuguese Directorate-General for Consumers has published a [press release](#), in which it states that it is going to remain attentive to unfair commercial practices, such as the ones seeking to exploit consumers' fear in the face of the new coronavirus, notably, practices aimed at promoting products or services guaranteeing or suggesting the cure or a particular treatment for the disease, or any other allegations that might mislead consumers as to their real effects or properties. For complaints, consumers may use the form [Complaints](#).

In the same vein, the Regulatory Authority for Health (“**ERS**”) issued, on March 20, 2020, a [supervision alert](#), stressing the need to protect users and ensure that the information being disclosed in this regard (either about the care that users should take, or about the behaviors that they should adopt at this time) are true and not likely to be misleading.

Enforcement Priorities

Changes and impositions regarding price fixing (notably, the setting of maximum prices for certain essential goods) as well as modifications on the rules on individual restrictive trade practices and related diplomas, might occur. This will certainly intensify investigations from the competent authorities, mainly the **ASAE** and the **AdC**. Investigations for anticompetitive practices might override merger control proceedings and be dealt with more urgency.

Decree Law no 14-E/2020, that provides for an exceptional and temporary regime regarding the design, manufacture, import, trading and use of medical devices and personal protective equipment, and implements *Recommendation (EU) 2020/403* from the Commission, of March 13, 2020, might result in a shift on the priorities of **ASAE**, since Article 6 provides for the urgent and priority nature of the procedures, decisions and recommendations of the Portuguese Tax Authority, **INFARMED** and the **ASAE**, which result necessary for the manufacture, import, placement and making available on the market of medical devices and personal protection equipment.

Other Considerations

Law no 7/2020, of April 10, 2020 includes guarantees on the provision of essential services, prohibiting the suspension of the provision of the following: a) water, b) electricity, c) natural gas, and d) electronic communications services. The same law also imposes the drawing up of a payment plan, to be defined by an agreement between the supplier and the customer, in case there are debts related to the provision of the services referred to above.

There are also rules providing for the suspension of the commissions due for the use and execution of payment transactions through digital platforms of payment service providers, namely home banking or applications with a card-based payment instrument (see Article 5 of the same law as well as *Decree Law no 10-H/2020*, of March 26, 2020).

Finally, it is worth mentioning that, following the fine imposed to *Hospital Particular do Algarve* for gun-jumping, and given that the sanction involved a company from the health sector (in this case a private hospital), the **AdC** has accepted the payment of the fine in several instalments so as to avoid any impact on the provision of the company's services, also stressing that it will continue its mission, with a sense of responsibility and orientation towards the common good.

Romania

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Competition Authority: The Competition Council (“**Consiliul Concurenței**”) (<http://www.consiliulconcurentei.ro/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No delays anticipated. The President of the Romanian Competition Council publicly declared the meeting the legal deadlines is expected.

Investigations/Litigation

Filings

According to the *Presidential Decree on Emergency State*, any time limits do not start to elapse and, if they started to elapse, they are suspended for the entire duration of the emergency state. Thus, the 30-day time limit to challenge decisions issued by the Romanian Competition Council is suspended.

Delays/Other Considerations

No dawn raids are conducted and initiation of new investigations can be delayed. While ongoing investigations are expected to continue their course, deadlines for answering requests for information can in practice be expected to be longer than regularly.

Communications With the Regulator

How are filings made/meetings handled?

No physical meetings, teleconferencing remains available on ongoing/new files. Communications are made by e-mail, phone or mail. Merger filings are submitted by e-mail, with originals and hard copies by mail. Any complaints or referrals from whistle blowers can be submitted via mail, e-mail or the authority dedicated website.

Other Antitrust Issues

Competitor Collaborations

In line with the **ECN** position, the Competition Council publicly announced that during this crisis some forms of cooperation are accepted. Also, the authority adhered to the Framework Communication addressing the antitrust issues related to cooperation between competitors in COVID-19 related urgency situations, especially in relation to cooperation in the health sector. For instance, companies can coordinate in order to limit the deficit of essential products and ensure a balanced distribution – for example, retailers can coordinate transport to ensure the supply of products/home delivery for people not able to leave their homes.

High competition risks may still occur if for example, competitively sensitive information is shared (e.g., current or future prices, costs, output); if the cooperation is used as an opportunity to set prices, restrict output, divide customers or markets, or coordinate commercial strategies.

Any practice that is not justified by the current context will continue to be sanctioned – it is recommended for companies to check with the authority the measures they intend to put in place. For this, the Romanian Competition Council offers informal guidance to companies.

Price Gouging

From a competition law perspective, most risks in case of price increases in this period may arise especially for dominant undertakings (dominance being presumed at market shares exceeding 40%).

In addition, the Romanian Competition Council announced that companies must insure that prices are available at competitive prices: owners of online platforms may impose measures to limit the unjustified increase of prices for basic products and services; producers can set a maximum price, which might be useful to limit unjustified price increases at distribution level.

According to public statements, price gouging might be subject to enforcement from tax and consumer protection authorities. In addition to that, the Presidential Decree on Emergency State provides that the prices of medicines, medical equipment, food of strict necessity and public utility

services may be capped (e.g., electricity, thermal energy, water supply, sanitation, fuel etc.), within the limit of the average price of the last 3 months before the state of emergency was declared.

Until now, measures enacted in this regard concern public utility services, while for other products, several initiatives are pending.

Misleading Advertising

Misleading advertising is mainly covered by consumer protection regulations. Practices related to use of misleading advertising/information may fall under the abusive practices sanctioned by the Competition Council in the event of a dominant position.

Enforcement Priorities

Although the Competition Council is very responsive to the needs of the companies to meet the difficulties derived from COVID-19 crisis, this does not lead to an exclusion from enforcement of competition rules. The Competition Council will take measures against companies that engage in abusive practices (such as setting excessive prices) or cartel type practices.

While the Competition Council launched an investigation into price increases for protective face masks, the usual enforcement priorities remain valid (e.g., cartels, mainly in tenders, exchange of information, certain abuse of dominance practices).

Other Considerations

The authority is responsive to any public/private initiatives, so we expect strong enforcement during COVID-19 crisis and in the aftermath.

Serbia

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Competition Authority: The Commission for Protection of Competition (“**Commission**”) (<http://www.kzk.gov.rs/en>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

There are no waiting delays.

Investigations/Litigation

Filings

New investigations proceedings and filings are accepted by the Commission. New filings for litigation procedures are accepted by the Serbian courts.

Delays/Other Considerations

There are no delays.

Communications With the Regulator

How are filings made/meetings handled?

The **Commission** is not holding the meetings with the parties. Most of the communication is conducted via email (office@kzk.gov.rs) Written submissions and other mail can be submitted by electronic means, via e-mail pisarnica@kzk.gov.rs, through PE Pošta Srbije postal services or directly in the Clerk's Office.

Other Antitrust Issues

Competitor Collaborations

There are no statements of the **Commission** regarding this aspect.

Price Gouging

There are no statements of the **Commission** regarding this aspect.

Misleading Advertising

There are no statements of the **Commission** regarding this aspect.

Enforcement Priorities

There are no statements of the **Commission** regarding this aspect.

Other Considerations

There are no statements of the **Commission** regarding this aspect.

Slovakia

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Competition Authority: The Antimonopoly Office of the Slovak Republic (“**AMO**”) (<https://www.antimon.gov.sk/antimonopoly-office-slovak-republic/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No.

Investigations/Litigation

Filings

AMO and the courts are accepting filings both electronically and on paper.

Delays/Other Considerations

Administrative proceedings before **AMO** are ongoing, and waiting period are running. Court hearings are being held in the necessary extent in all court matters, with safety measures imposed by public health authorities (e.g. the requirement to wear mouth and nose cover in interiors, body temperature measuring at the building entrance).

Communications With the Regulator

How are filings made/meetings handled?

AMO is accepting both electronic and paper filings, while electronic filings are preferred. Standard operation hours of the filing office of the **AMO** has been reinstated from May 25, 2020.

The courts are accepting both paper and electronic filings, while electronic filings are preferred. Filing offices and information centers at the courts are working in standard regime, with safety measures imposed by public health authorities (e.g. the requirement to wear mouth and nose cover in interiors, body temperature measuring at the building entrance).

Other Antitrust Issues

Competitor Collaborations

AMO emphasized the [Joint statement](#) by the European Competition Network (“**ECN**”) on application of competition law during the COVID-19 crisis (“**Joint Statement**”).

According to the **Joint Statement**, the **ECN** understands that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers. In the current circumstances, the **ECN** will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. Considering the current circumstances, such measures are unlikely to be problematic, since they would either not amount to a restriction of competition under Article 101 *TFEU/53 EEA* or generate efficiencies that would most likely outweigh any such restriction.

Following the *Temporary Framework Communication of the Commission*, the **AMO** published its guidelines on competition aspects of the extraordinary situation. The **AMO** did not follow the Commission in reinstating the comfort letter system.

In response to the European Commission announcing exceptional measures to support the agri-food sector, the **AMO**, in cooperation with the Ministry of Agriculture, published guidelines on these measures.

Price Gouging

In the **Joint Statement**, the **ECN** pointed out that the existing rules allow manufacturers to set maximum prices for their products. The latter could prove useful to limit unjustified price increase at the distribution level.

Misleading Advertising

Misleading advertising is outside the scope of public competition law in Slovakia. Private enforcement of unfair competition is limited due to restricted regime of the courts (delayed hearings). No special activity in administrative enforcement against false advertising.

Enforcement Priorities

According to the updated **AMO** priorities policy of April 2020, abuse of the extraordinary situation related to COVID-19 was added among the criteria of assessment of infringement gravity, both in cases of agreements restricting competition and abuse of dominant position.

Other Considerations

The **AMO** is currently drafting the new *Competition Act implementing the ECN+ Directive*. The legislative procedure was delayed due to the pandemic, but publication of the first draft is expected soon. In relation to the pandemic, the **AMO** announced it will consider introducing the possibility to temporarily interrupt proceedings, and to refrain from imposing fines for failure to respond to the **AMO** information request, as a result of the extraordinary situation.

Further, the **AMO** is considering not taking into account 2020 turnovers for calculation of merger notification thresholds, since these turnovers are expected to decrease as a result of the pandemic, without having an impact on the relative market power of the undertakings.

Slovenia

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Competition Authority: The Slovenian Competition Protection Agency ("**Agency**") (<http://www.varstvo-konkurence.si/en/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

The **Agency** was expecting delays in its decision-making process due to its staff working from home, limited access to information from data bases and market participants, however this should now no longer be an issue as the declaration of epidemic in Slovenia has been revoked and businesses (and economy in general) are more or less functioning normally again.

Investigations/Litigation

Filings

The **Agency** shall continue to accept filings.

Delays/Other Considerations

The **Agency** has not indicated any special considerations in respect of its investigation procedures.

Communications With the Regulator

How are filings made/meetings handled?

The **Agency** shall continue to accept filings in paper form.

Other Antitrust Issues

Competitor Collaborations

On March 23, 2020 the **Agency** published on its web pages a [joint statement](#) (“**Joint Statement**”) by the European Competition Network (“**ECN**”). According to the Joint Statement, the **ECN** and its members, including the **Agency**, understand that the COVID-19 situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers. In the current circumstances, the **ECN**, therefore including the **Agency**, will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. Moreover, the Joint Statement pointed out that considering the current circumstances, such measures are unlikely to be problematic, since they would either not amount to a restriction of competition under Article 101 *TFEU/53 EEA* or generate efficiencies that would most likely outweigh any such restriction. If companies have doubts about the compatibility of such cooperation initiatives with competition law, they can reach out to the **Agency** for informal guidance.

Price Gouging

The Joint Statement cautioned that it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current remain available at competitive prices. The **ECN**, and therefore also the **Agency**, will not hesitate to act against companies taking advantage of the current situation by cartelizing or abusing their dominant position, which would include price gouging. On the other hand, the **Joint Statement** pointed out that the existing rules allow manufacturers to set maximum prices for their products. The latter could, in the opinion of the **ECN**, prove useful to limit unjustified price increase at the distribution level.

On March 13, 2020 the [Market Inspectorate of the Republic of Slovenia](#) (“**Market Inspectorate**”) warned that the providers of good and services should not take advantage of the extraordinary situation and increase the prices of goods and services in high demand. According to the **Market Inspectorate**, such practice would amount to an aggressive commercial practice where the trader would exploit specific misfortune or circumstance of such gravity as to impair the consumer's judgement, of which the trader is aware, to influence the consumer's decision with regard to the product. A legal entity using an aggressive commercial practice may be fined between EUR 3,000 and EUR 40,000 and the responsible individual within the legal entity may be fined between EUR 300 and EUR 2,000.

On March 14, 2020 the Slovenian Government imposed maximum prices for certain types of protective and other medical equipment which applied for three months and on the basis of which investigations into purchases of equipment during the epidemic have been initiated.

Misleading Advertising

Misleading advertising is also sanctioned by the **Market Inspectorate**. A monetary fine between EUR 3,000 and EUR 40,000 may be imposed upon a legal entity and a fine between EUR 1,200 and EUR 4,000 may be imposed upon the responsible individual within the legal entity. Recently, in respect of the COVID-19 epidemic, the **Market Inspectorate** has cautioned about misleading advertising of protective face masks by one trader that made false accreditation statements.

Enforcement Priorities

Based on the **Joint Statement**, it could be understood that the **Agency** will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. However, it derives from the Joint Statement that the focus might be on any anticompetitive behavior looking to exploit the current epidemic crisis. According to the publicly available information, the **Agency** has so far not initiated any procedures or investigations in respect of business conduct during the COVID-19 epidemic or as a response to new circumstances.

Other Considerations

N/A

Spain

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Competition Authority: The Comisión Nacional de los Mercados y la Competencia ("**CNMC**") (<https://www.cnmc.es/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

Not currently (all administrative deadlines were suspended from March 14, 2020 to June 1, 2020 as a result of a declaration of the state of emergency).

Investigations/Litigation

Filings

Filings to the **CNMC** and the courts can be made as usual.

Delays/Other Considerations

In relation to court hearings, newly enacted legislation allows the holding of hearings and trials by videoconference. There is no general practice: whether and the extent to which this tool is used depends on each court and the parties' position in relation thereto.

Communications With the Regulator

How are filings made/meetings handled?

All filings to the **CNMC** were made electronically before the COVID-19 crisis and this system remains in place and works well. The **CNMC** premises are closed to the public and the staff is mostly working from home. The **CNMC** staff can be approached by phone and e-mail and meetings can be arranged by teleconference and videoconference.

Other Antitrust Issues

The **CNMC** has warned companies that it does not consider that the current crisis means, in general, that they can infringe the rules on agreements between undertakings or abuse dominant positions. The **CNMC** has intensified its vigilance of possible abuses or practices that could hinder the supply, or increase the price, of products that are considered essential to protect the health of consumers.

Competitor Collaborations

The **CNMC** has joined the [communication](#) by the European Commission and EU national competition authorities, which explains that competition authorities intend to be as flexible as possible when assessing temporary cooperation agreements between businesses that concern the supply and distribution of scarce consumer products and which generate efficiencies that avoid supply shortages. They have gone so far as to indicate that they have no intention to intervene in these cases and are willing to respond to consultations and offer informal guidance on projects that facilitate the production and supply of essential products.

The competition authorities also underline that manufacturers can impose maximum resale prices on their distributors, which could contribute to limiting potential price increases by distributors.

Through the dedicated COVID-19 mailbox (see below), the **CNMC** has advised on the competition law compliance and limits of certain cooperative agreements in the insurance, hospital, financial and health products markets.

Price Gouging

N/A

Misleading Advertising

N/A

Enforcement Priorities

The **CNMC** has established a dedicated “mailbox” for complaints related to potential competition infringements in the context of the COVID-19 crisis. The examples that the **CNMC** provided were “*abuses of dominant positions through price gouging; anti-competitive agreements between operators or unfair conduct consisting of massive fraud involving those goods and services affected by the health crisis.*” The mailbox can also be used to consult the **CNMC** on the legality of agreements between companies which address difficulties caused by the COVID-19 outbreak. By June 2020, the **CNMC** [announced](#) that it had received more than 500 enquiries and complaints in this mailbox. The complains mostly refer to possible anti-competitive behavior in the financial industry and in the marketing of basic goods and services. In particular, the **CNMC** is monitoring or has opened preliminary investigations in the following cases:

- Demands from financial entities for additional guarantees in order to obtain state-sponsored loans granted as a response to the crisis.
- Prices charged by funeral companies.
- Substantial increases in prices of healthcare products, such as for sanitizing gels and the raw materials to produce it (e.g. ethanol).

Other Considerations

N/A

Sweden

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Competition Authority: The Swedish Competition Authority (*Sw: Konkurrensverket*) (<http://www.konkurrensverket.se/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

There is no official delay period. The Swedish Competition Authority has announced on its [website](#) that its operations will be conducted as usual but with the practical limitations that may follow due to the COVID-19 outbreak.

Investigations/Litigation

Filings

Filings are accepted. According to a [press release](#), the Courts of Sweden have now adapted to the COVID-19 outbreak and operations are expected to continue as usual.

Delays/Other Considerations

No official delay period has been announced by the Courts of Sweden. According to the above-mentioned [press release](#), the Courts have delivered a record number of judgments in 2020. Oral hearings are still being held, but the use of [video links](#) is increasing. According to a statement on the [website](#) of the Courts of Sweden, any party who has a cough, fever or a running nose or is experiencing respiratory issues shall not visit the courts.

Communications With the Regulator

How are filings made/meetings handled?

No changes to the communication with the Swedish Competition Authority have been announced. On the authority's [website](#), it is stated that companies that have questions or would like to receive guidance on an initiative to cooperate due to the COVID-19 outbreak, can make informal contacts with the Authority via tipsa@kkv.se or +4687001600.

Other Antitrust Issues

Competitor Collaborations

The Swedish Competition Authority has on its website provided [guidance](#) on the competition rules during COVID-19, whereby it made clear that during the COVID-19 crisis, the general competition rules apply as usual, i.e. the prohibition on anticompetitive agreements and abuse of a dominant position. The assessment of whether an agreement or a measure restricts competition depends, as always, on the context. There is no specific exception for cooperation between companies in times of crisis. The exceptions from the prohibition on anticompetitive agreements that exist under the current rules apply as usual.

In its guidance, the Swedish Competition Authority has referred to the Commission's temporary [framework](#) for assessing antitrust issues related to business cooperation in response to situations of urgency stemming from the current COVID-19 outbreak, as well as the Commission's temporary framework establishing further exceptions for the agricultural sector. The Competition Authority also refers to the [statement](#) by the European Competition Network ("ECN"), which includes the Swedish Competition Authority, on the application of the competition rules during the COVID-19 outbreak.

Price Gouging

In the above-mentioned [guidance](#), the Swedish Competition Authority states that it will ensure that price gouging is functioning also during the COVID-19 crisis, especially with regard to the prices of products of importance to the health care sector. When demand increases, companies might cooperate in a restrictive way e.g. by agreeing to stop the production of defective products in order to keep up the price, or that a company abuses its dominant position by charging excess prices.

Misleading Advertising

No changes have been made to the current legislation with regard to deceptive marketing of products, such as advertising claiming to prevent the virus.

Enforcement Priorities

The Swedish Competition Authority has [stated](#) on its website that if it receives indications that market participants are engaging in excessive overpricing, it will prioritize such matters.

Other Considerations

N/A

Switzerland

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Competition Authority: The Swiss Competition Commission (“**Competition Commission**”) (<https://www.weko.admin.ch/weko/en/home.html>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No. Merger control proceedings proceed as usual.

Investigations/Litigation

Filings

Filings with the **Competition Commission** and the Swiss courts have to be made by the usual means. In addition, the **Competition Commission** now allows the setting of paperless e-markers for leniency applications via online forms.

Delays/Other Considerations

No specific COVID-19 standstill of time limits apply anymore.

Communications With the Regulator

How are filings made/meetings handled?

There are no specific COVID-19 guidelines regarding filings and meetings. The **Competition Commission** can be contacted by email, phone, fax and mail as usual. In addition, the **Competition Commission** now allows the setting of paperless e-markers for leniency applications via online forms.

Other Antitrust Issues

Competitor Collaborations

On March 26, the **Competition Commission** issued a statement to emphasize that it does not tolerate companies exploiting the COVID-19 crisis to restrict competition. Challenges related to the COVID-19 crisis do not constitute a reason or justification for antitrust violations. In particular, the overall economic situation must not be abused to form cartels and agree on prices. In this regard, the **Competition Commission** took a more restrictive approach than the European competition authorities did in their joint statement of March 23, 2020.

Nevertheless, the **Competition Commission** emphasized that it is available for questions and seeks discussions with associations, companies and other authorities on the design of measures to combat the COVID-19 crisis in conformity with antitrust law.

Price Gouging

The **Competition Commission** informed it received various enquiries about price gouging, for example regarding masks or disinfectants. However, the **Competition Commission** can only intervene if the price gouging is a result of unlawful price agreements between undertakings or an abuse of a dominant market position. The **Competition Commission** informed that it will cooperate with other competent authorities.

Misleading Advertising

The **Competition Commission** is not responsible for misleading advertising.

Enforcement Priorities

The **Competition Commission** has prioritized urgent requests regarding measures related to COVID-19:

- On May 29, 2020, the Swiss Football League decided to resume the football league as of June 16, 2020. The football club FC Sion applied to the **Competition Commission** to prohibit the resumption of the football league and to initiate an investigation for abuse of a market

dominant position. With decision of June 12, 2020, the **Competition Commission** rejected this request and held that the decision of the Swiss Football League did not violate antitrust law.

- On May 20, 2020 and June 29, 2020 respectively, the **Competition Commission** published its reports on the admissibility of the state aid, which the Federal Government intended to grant to the airlines SWISS and Edelweiss as well as to SR Technics Switzerland AG for its aviation-related business. While the support provided to the airlines was found to be in line with the air transport agreement between the EU and Switzerland, the aid to SR Technics was considered incompatible with this agreement.

Other Considerations

N/A

Turkey

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Competition Authority: The Turkish Competition Authority ("**Authority**") (<https://www.rekabet.gov.tr/>)

Merger Review

New Filings Accepted?

Yes. We have been informed that they are currently working with some internal arrangements (mixed shifts between remote and workplace working) and accept submissions as usual, i.e. submissions via hand delivery, post and online system.

Waiting Period Delays?

No. There are no official measures regarding the working scheme or time periods/limitations announced by the Turkish Competition Authority.

Investigations/Litigation

Filings

Online submissions have been encouraged since the beginning of the pandemic. We understand that the ratio of online submissions has significantly been increasing since then and more than half of the submissions are being made through online system now.

Concerning court proceedings for the purposes of appeals for the Authority's decisions before the administrative courts, it is possible to submit paper filings but in practice, parties and counsel prefer to submit their petitions using UYAP (National Online Judicial Network System).

Delays/Other Considerations

There is no official announcement/regulation pertaining to time periods or delays for the reviews handled by the **Authority**. The suspension of time limitations regarding the origination, exercise and termination of any rights, including but not limited to the statute of limitations, peremptory terms for filing legal actions, commencing enforcement proceedings, warnings, notices, submissions, complaints and objections; time limits regulated under the *Code of Administrative Procedure*, the *Criminal Procedure Law* and the *Code of Civil Procedure* proceedings which started on March 13, 2020 (March 22, 2020 for enforcement proceedings) has been lifted as of June 15, 2020.

Communications With the Regulator

How are filings made/meetings handled?

During the initial phases of the pandemic, an announcement was made on the **Authority's** website on April 6, 2020, encouraging (not obliging) applicants to submit any submissions and documents via an online portal ("e-Government" system enabling users to access several government services). As mentioned above, using rate of the online system has been increased significantly. Communications with the case handlers for the on-going cases continue as usual.

Other Antitrust Issues

Competitor Collaborations

N/A

Price Gouging

The **Authority** published an announcement on its website on March 23, 2020. The **Authority** stated that unreasonably high prices have been observed in the food sector with the intention of leveraging these extraordinary times. The **Authority** declared that it is closely monitoring the

relevant developments and will impose the “heaviest administrative monetary fines” to the undertakings who are engaged in such anti-competitive behaviors in the food sector.

Following the foregoing announcement, the Board initiated an investigation against 29 market chains on May 7, 2020. The Board indicated on the public announcement regarding this investigation that it is strongly believed that especially excessive price behaviors of some undertakings active in the production and commercialization of food and cleaning/hygiene products might constitute competition law infringement. It is also indicated that it could be inferred that the Board might conclude this process faster than others due to the sensitive nature of the matter.

Misleading Advertising

N/A

Enforcement Priorities

N/A

Other Considerations

It has been observed and experienced that there has been no serious delays or disruption in the working schedule of the **Authority** stemmed from the effects of the pandemic.

Ukraine

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Competition Authority: The Antimonopoly Committee of Ukraine (“**AMC**”) (<https://amcu.gov.ua/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

The government rolled out certain quarantine measures. The **AMC** introduced remote working for a number of case-handlers (on a weekly rotation basis). To our knowledge, the authority keeps working as usual and these measures have not affected the **AMC**'s deadlines and the overall process.

Investigations/Litigation

Filings

Paper filings are accepted.

Delays/Other Considerations

Generally, **AMC** investigations are not limited by deadlines. Due to the quarantine measures, as well as possible changes in the **AMC**'s enforcement priorities, delays may be expected. As far as state aid notifications are concerned, the **AMC** has introduced fast track procedure for COVID-19-related aid. As regards litigation, courts have renewed hearings after about three-month suspension that was introduced in April 2020. However, certain quarantine restrictions are still in effect, like special procedure for admission to court premises, wearing masks inside courtrooms etc.

Communications With the Regulator

How are filings made/meetings handled?

The **AMC** operates as usual (save for some changes in handling complaints in public procurement cases). Filings to the **AMC** are generally made in paper form. Meetings and hearings are conducted in person. In antitrust investigations the **AMC** conducts some interviews and holds some meetings online.

Other Antitrust Issues

Competitor Collaborations

To our knowledge, the **AMC** has not announced any changes to its approach in relation to competitor collaborations due to COVID-19.

Price Gouging

The **AMC** issued several notices warning manufacturers and resellers of certain “critical goods” (food, medications for treating COVID-19 symptoms, personal hygiene products) not to charge excessive prices. Later the **AMC** opened investigation alleging potential price gouging by certain manufacturers and retailers of food and protection masks.

Relatedly, in one of its notices the **AMC** warned the biggest Ukrainian poultry producer not to create “artificial deficit” on the Ukrainian market amid COVID-19.

To our knowledge, there have been no developments in these cases since then (though visibility into the **AMC**'s progress is somewhat limited at this stage).

Misleading Advertising

The **AMC** issued a notice warning they would be monitoring unfair competition practices (e.g., deceptive marketing for products claiming to prevent the virus). Later the **AMC** opened investigation alleging deceptive practices by local pharma manufacturers (the advertisement stated that drugs helped to fight 'coronaviruses') and then imposed several fines (around EUR 120,000 in total)

Enforcement Priorities

The **AMC** has not expressly stated that urgent virus-invoked issues will be prioritized over ongoing enforcement matters. However, their focus on the “critical goods” means that they may change priorities if needed.

Other Considerations

When COVID-19 emerged, the **AMC** imposed very tight deadlines (sometimes shorter than provided by the law) for responding to **AMC** inquiries about "critical goods" and urged companies to comply with such deadlines. There have been changes in **AMC** leadership very recently, including Chair and First Deputy Chair of the authority – thus, further policy adjustments may be expected.

United Kingdom

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Competition Authority: The Competition and Markets Authority ("**CMA**") (<https://www.gov.uk/government/organisations/competition-and-markets-authority>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

The binding statutory deadlines continue to apply and the **CMA** intends to carry on progressing its cases. Resources are being reallocated to ensure the most urgent and most critical work can be done on time. Pre-notification processes may take longer. While the statutory deadlines that apply have not been altered, the pandemic may have an impact on the running of individual cases. Any changes will be communicated to the parties involved and made publicly available on the **CMA** website.

Investigations/Litigation

Filings

Filings to the [Competition Appeal Tribunal](#) should be made electronically. Parties are encouraged to file other documents electronically and any party wishing to serve hard copy documents should contact the Tribunal Registry in advance. All other hearings before the **CMA** are to be conducted remotely via video link or telephone.

Delays/Other Considerations

No general extension of time is granted. The Tribunal has a general power to extend any time limits and recognizes that the current situation is exceptional. Requests for extensions of time will be determined on a case-by-case basis.

Communications With the Regulator

How are filings made/meetings handled?

Filings to the **CMA** can be made electronically through the use of e-signatures, post or courier deliveries are not being accepted into any of its offices. In person meetings are suspended (including site visits) and all meetings are to be conducted remotely via videoconferencing or telephone.

Other Antitrust Issues

Competitor Collaborations

The **CMA** [announced](#) it was "*temporarily relaxing elements of competition law*" and published its [approach](#) identifying the current situation may require companies to cooperate to ensure "*the supply and fair distribution of scarce products and/or services affected by the crisis.*"

The **CMA** confirmed it will not take enforcement action where short term, temporary measures are taken by businesses which are appropriate, and necessary in order "*to avoid a shortage or ensure security of supply*". Any cooperation by businesses must be in the public interest, must contribute to the benefit or wellbeing of consumers, must deal with critical issues that arise as a result of the COVID-19 pandemic, and must last no longer than is necessary.

The **CMA** has provided [guidance](#) on how it will apply the legal criteria for exemption from the prohibition on agreements and arrangements restrictive of competition during the COVID-19 crisis.

Price Gouging

The **CMA** created a COVID-19 Taskforce on March 20, 2020 in order to scrutinize, and warn any firms or retailers suspected of exploiting the "exceptional circumstances" and take any required enforcement action.

The **CMA** has [confirmed](#) price gouging has become less widespread. Although this may reverse as a result of new restrictions, by imposing quantity rationing this provide a better outcome for all consumers.

Misleading Advertising

The Advertising Services Authority ("ASA") has published a [statement](#) to address misleading claims and exploiting consumer fears about COVID-19 during the current retail conditions. Together with [Trading Standards](#), the **ASA** is monitoring adverts and misinformation to ban advertisements claiming to prevent the virus and has a self-reporting tool available [online](#) for consumers. The **ASA** considers and monitors its current procedures in line with the advice of [Public Health England](#) and the Government.

Enforcement Priorities

To date, the **CMA** has identified three areas of concern; (1) weddings and private events, (2) hotel accommodation and package holidays and (3) nurseries and childcare providers. The **CMA** has reiterated that irrespective of any challenges a business may face, consumer rights cannot be ignored and that it "will get tough – that means launching enforcement cases".

Other Considerations

N/A

Anguilla

WEBSTER LP

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Competition Authority: There are no Antitrust or Competition laws in Anguilla.

Merger Review

New Filings Accepted?

Everything is operating as normal in Anguilla.

Waiting Period Delays?

No.

Investigations/Litigation

Filings

As it relates to the filing of Court documents, where the Eastern Caribbean Supreme Court E-Litigation Portal (“**Portal**”) has been implemented, filings of documents in court matters already on the **Portal** and the filing of new court matters will continue as normal, as much as possible. To provide for the continued filing of court documents where the **Portal** has not been implemented and for matters, the court has made special provisions for electronic filing.

Delays/Other Considerations

At the moment everything is operating as normal. In the event that the court office gives *Notice of closure of the Court Office* (“**Notice of Closure**”) or where the government issues a **Notice of Closure** or lockdown of all services within the territory:

- time under the provisions of the *Civil Procedure Rules 2000* and the *Criminal Procedure Rules* (where applicable) for the filing of any documents shall cease to run for the period stipulated in such notice;

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- time for compliance with any rule, practice direction or procedural court order shall cease to run. This would include the time for service of filed documents for matters where service other than by electronic means is required or available.

The Eastern Caribbean Supreme Court *Practice Direction - COVID-19 Emergency Measures*, which was first issued on March 22, 2020, was re-issued twice, with the latest one dated June 8, 2020.

Communications With the Regulator

How are filings made/meetings handled?

- **Court of Appeal Matters:** Urgent applications to the Court of Appeal will be assessed by the Court for Hearing and will be heard either by electronic means or where the rules provide, on paper.
- **High Court - Civil Cases:** Urgent applications to the court will be heard remotely or by written submissions. Except for urgent applications to the court, hearings and trials for civil matters are suspended with immediate effect until further notice, unless the judicial officer determines that the matter can be dealt with by video or teleconference.
- **High Court - Criminal Cases:** All jury trials have been suspended until further notice, and all jurors are excused.

Other Antitrust Issues

Competitor Collaborations

All are operating as usual.

Price Gouging

On March 26, 2020, the Ministry of Finance prepared a list of food and sanitary items for concession on import and a maximum price was established on those items to prevent price gouging. On April 9, 2020, the Government of Anguilla issued a directive that retail businesses in Anguilla cannot charge unfair prices for “necessary goods” including masks and gloves; disinfecting agents, personal hygiene products; general groceries. On July 7, 2020, the *Distribution and Price of Goods (Maximum Price Order) Regulations, 2020* was revised to extend the period of the *Regulations* to October 9, 2020.

Misleading Advertising

This has not been an issue in Anguilla.

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Enforcement Priorities

The *Public Health (Temporary Restrictions on Movement of People and Public Gatherings) Regulations (“Regulations”)* came into force on March 27, 2020. Any person who fails or neglects to carry out or infringes on any provisions of the **Regulations** is guilty of an offense and is liable upon summary conviction to a fine or imprisonment, or both.

The Air, Sea, and Land patrols have been stepped up. In addition, a notice and regulations under the *Emergency Powers Act* was issued on April 9, 2020, prohibiting the use of any boats in Anguilla waters unless specifically exempted.

The *Emergency Powers (COVID-19 Border Control) Regulation, 2020* which became effective on April 9, 2020 is being constantly updated to extend the period of time as necessary and to put any necessary measures in place.

The *Public Health (Temporary Restrictions on Public Gatherings) Regulations, 2020* was issued on April 30, 2020.

Other Considerations

The *Public Health (Quarantine) Regulations, 2020; Public Health (Government Quarantine and Isolation Facilities) and Regulations, 2020 Quarantine (COVID) Rules, 2020* became effective on June 5, 2020 to facilitate the repatriation program.

The *Quarantine (COVID-19) (Arriving Passengers Health Clearance) Rules, 2020* became effective on July 31, 2020 and will expire on October 3, 2020. The Anguilla Government has temporarily reopened its ports to allow entry of pre-approved Anguillans and visitors.

Argentina

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Competition Authority: The Comisión Nacional de Defensa de la Competencia (“**CNDC**”) (<https://www.argentina.gob.ar/defensadelacompetencia>)

Merger Review

New Filings Accepted?

Yes. A temporary electronic filing system has been implemented during the health emergency. At the beginning of the lockdown, interested parties have must sent their filings by email but on August 26, 2020, a remote platform (“**TAD**”) was implemented for mergers and requests for advisory opinions.

Waiting Period Delays?

Merger control system is post-closing. There is a suspension of procedural deadlines for ongoing proceedings before the **CNDC**. The immediate effect of the suspension is a delay in the term of the **CNDC**'s resolutions.

Investigations/Litigation

Filings

Yes, parties must use the temporary electronic filing system for urgent presentations.

Delays/Other Considerations

Procedural deadlines and hearings for ongoing procedures before the **CNDC** are suspended. It is expected both delays in **CNDC** decisions and a growing backlog of cases.

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Communications With the Regulator

How are filings made/meetings handled?

The **CNDC** has set up two mailboxes during the health emergency for urgent presentations or queries.

The **CNDC's** offices are closed to the public from March 16 until further notice. The **CNDC** is providing a minimum service limited only to the attention of those urgent matters.

Other Antitrust Issues

Competitor Collaborations

The *Antitrust Law No. 27,446* ("**Antitrust Law**") is fully in force. There have been no changes in antitrust enforcement regarding collaboration agreements between competitors. The **Antitrust Law** prohibits agreements among competitors to fix prices, restrict output, submit collusive tenders, or divide or share markets. However, pursuant to Article 29 of the **Antitrust Law**, the **CNDC** can authorize competitors to enter into those agreements as long as they do not harm the general economic interest. Although this mechanism has never been put into practice, it may be useful during the current crisis.

Price Gouging

After the health emergency was declared, the Argentine Executive Power has set out maximum prices of hand sanitizers and more than twenty three hundred food and personal health products. It has successfully extended that measure until October 31, 2020.

The Secretary of Trade together with the National Tax Agency are conducting inspections in food producers, supermarkets, grocery stores, pharmacies and other retail outlets to ensure compliance with those maximum prices. Furthermore, that inspection powers provided in the *Supply Law* has also been delegated to provincial governors and mayors. However, solely the Secretary of Trade can impose fines and other penalties.

In order to prevent beef cattle prices increases, the government issued a price information system for all the actors in the meat value chain and ordered the **CNDC** to initiate a market investigation to find out if that increases are the result of illegal practices.

The **CNDC** has initiated an investigation on the liquid medicinal oxygen market to determine possible infractions of the **Antitrust Law**.

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The government has set a maximum price to the active principle “Nusinersen (Spinraza®) 12mg / 5mL”, injectable solution for intrathecal administration, and the **CNDC** has initiated a market investigation on that solution in order to determine the possible commission of infractions to the **Antitrust Law**.

Misleading Advertising

Even though the government has not issued any specific communication regarding COVID-19 and misleading advertising so far, the *Fair Trade Decree No. 274/2019* prohibits those acts of deception regarding the nature, production method, key features and conditions of the goods and services. On August 24, 2020, the *Regulatory Decree for Fair Trade* was published in the *Official Gazette*.

Enforcement Priorities

Urgent competition-related issues may be prioritized over ongoing enforcement matters which procedural deadlines are currently suspended.

Other Considerations

CNDC's telephone services are unavailable until further notice.

Brazil

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Competition Authority: The Administrative Council for Economic Defense (“CADE”) (<http://en.cade.gov.br/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No, deadlines for merger review filings continue to run normally. At the beginning of the pandemic, merger filings that required market tests were facing delays, as CADE was having difficulties to reach out to market stakeholders and obtain timely answers. However, such delays seem to have been reduced. In this regard, statistics on the average time for the assessment of a transaction shows that the Brazilian agency has been more efficient in 2020 than it was in 2019. CADE took in average 31.4 days to assess merger cases in 2020, versus 34.4 days in 2019 (period considered: Jan – May).

Investigations/Litigation

Filings

All filings/submissions are done electronically, through a digital platform. Therefore, no changes in this aspect. Additionally, the Brazilian Congress approved *Law 14,010/2020*, which provides for the suspension, until October 31, 2020, of the characterization as violation against the economic

order of the (i) sale of products or services at prices unreasonably below the market price and (ii) the whole or partial termination of business activities without cause (items XV and XVII of § 3 of art. 36 of *Law No. 12.529/11 – Brazilian Antitrust Law*).

Delays/Other Considerations

All deadlines that ran against defendants in cartel, unilateral conduct and gun-jumping formal probes had been suspended in Brazil, to address issues with the COVID-19 outbreak (similar measures were taken by Judiciary Courts). Deadlines resumed on July 21, 2020, since Congress failed to vote on the Provisional Measure within the 120-day deadline.

The decision did not prevent, however, the normal processing of all other types of proceeding in course before **CADE**, meaning that deadlines in preliminary probes of any type, leniency applications, settlement negotiations and consultation requests, for instance, continued to run normally.

Communications With the Regulator

How are filings made/meetings handled?

Filings are made electronically (which is already the official means), and meetings started to be held via videoconference (Zoom Meetings). **CADE's** Tribunal continued to operate. On April 15, 2020, it held its first online ruling session. Sessions continue to be held regularly (approximately twice a month) via the Web. Requests for oral hearing must be formalized by email up to 24 hours before the start of the session and it must be sent by a media file to the Plenary Secretariat. Counsel are given an email and telephone number to be able to intervene in the ruling session and have the right of active participation guaranteed.

Other Antitrust Issues

Competitor Collaborations

The Brazilian Congress approved *Law 14,010/2020*, which provides for the exemption for **CADE's** approval - until October 31, 2020 or as long as the country's state of emergency due to COVID-19 lasts – of cooperation agreements, which normally take the form of the so-called 'associative agreements' (collaboration agreements between competitors), consortia or joint ventures signed as of March 20, 2020.

CADE has commented on such Law, stating that the exemption will not exclude the future assessment and clearance of the exempted transactions by **CADE** and will not prevent **CADE** from investigating and punishing conducts and the deals that were not deemed necessary to combat or mitigate the effects arising from the COVID-19 crisis.

Additionally, **CADE** released a provisional informative note concerning the collaboration among companies to face the COVID-19 crisis, which provides general guidelines for collaboration among companies, with considerations regarding scope, duration, territorial extension, governance, transparency, good faith and precautions to take when collaborating with players from the same industry. The informative note also establishes procedures that may be adopted by economic agents in order to get a declaration from the agency – communication channel, petition or inquiry -, with broad details regarding each one.

On top of that, in May 2020, **CADE**'s Tribunal ruled on the first collaborative agreement between competitors on the food and beverage sector, as a measure to minimize the effects of the COVID-19 crisis in the retail sector. The agreement is expected to last until October 31, 2020 and may be extended in case the pandemic scenario grows. The companies would have to inform **CADE** in advance of such extension.

Price Gouging

CADE started a preliminary probe on March 18, 2020, aiming to investigate potentially abusive price increases in some medical and pharmaceutical segments, such as drug stores, pharmaceutical companies, hospitals, laboratories, as well as manufacturers and distributors of alcohol-based hand sanitizers and surgical masks. The case is still under investigation by **CADE**'s General Superintendence.

Regarding price freezing: the Department of Economic Studies ("**DEE**") at **CADE**, following a request from the Legislative Branch, objected to two draft bills (which are under assessment at the National Congress), proposing to freeze prices and set price caps on pharmaceuticals considered essential during the COVID-19 outbreak. The economists took the view that such measures would reinforce the non-isonomic treatment and have a negative impact on the supply of pharmaceuticals in a delicate moment of health emergency in Brazil.

The **DEE** stated that "*supply interruption and price hikes could be an expected effect*" and defended that "*the average price could increase and the price dispersion decrease, which would show that this type of ceiling-price policy can generate tacit collusion and focal points between agents*" (Source of citations: MLex.com — © copyright 2019 MLex Market Insight.)

Additionally, **DEE** has submitted a series of technical notes from a competition standpoint regarding other relevant bills that have been proposed made due to the COVID-19 outbreak, such as: (i) *Law 8864/2020 of the State of Rio de Janeiro*, which seeks to impose discounts on educational service contracts due to the COVID-19 outbreak; (ii) recommendations issued by one of the entitled consumer protection agencies in Brazil, recommending the establishment of a maximum price for the resale of Liquefied Petroleum Gas ("**LPG**"); and (iii) *Law No. 14,024/2020* which provides for the temporary suspension of financial obligations resulting from student loans which benefit from governmental incentives. The **DEE** has opposed to virtually all proposed exceptions. Although in some cases it stated that the effects could benefit consumers on the short-term, the economists defended that the competitive environment could be harmed on the medium or long term.

Latin America and the Caribbean

Misleading Advertising

There is no statement on this matter, to the extent of our knowledge.

Enforcement Priorities

CADE is ensuring that it will keep its full functioning, with staff working remotely and meetings and Tribunal sessions held virtually, via online platforms. Regarding its institutional mission, **CADE** announces that it will stay vigilant amid the COVID-19 outbreak, to secure that there will not be abuses by companies active in the healthcare and pharmaceutical industries.

Other Considerations

N/A

Colombia

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Competition Authority: The Superintendence of Industry and Commerce ("**SIC**") (<https://www.sic.gov.co/en/about-us>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No. The **SIC** reactivated terms for merger control procedures on May 12, 2020. Since then, all the procedures and documents have been submitted electronically before the **SIC**.

Investigations/Litigation

Filings

Terms for investigations related to competition matters were reactivated on June 16. However, all the proceedings, audiences, and documents to be submitted before the authority must be done electronically.

Delays/Other Considerations

Notwithstanding the above, users who need to approach to the SIC facilities may do so with prior notice to the authority.

Communications With the Regulator

How are filings made/meetings handled?

All documents and filings must be submitted electronically. However, the **SIC** facilities are open to the public but they must give prior notice to the authority to get in. The users can only be in the **SIC** facilities for the reasons included in the notice and must have all the biosecurity measures. Therefore, meetings may be held off or in-site.

Other Antitrust Issues

Competitor Collaborations

1. On March 26, 2020, the Colombian Government issued a specific Decree for the freight transportation industry whereby a special committee composed of different relevant authorities may approve agreements in this industry that under the normal antitrust regime could be considered illegal. The agreement creates synergies and efficiencies in the industry during the crisis, especially for the supply of goods that are indispensable for the general welfare of the population.
2. On May 11, 2020, the **SIC** issued an ad-hoc procedure to allow companies to enter into collaboration agreements with their competitors, which has as main purpose to handle and overcome the adverse economic effects caused by the COVID-19 crisis. The agreements must imply efficiencies and the parties involved in the agreement shall inform the Deputy Superintendence the following:
 - Enforcement of the agreement
 - Companies involved
 - Overlapping products or services
 - Specific terms of the agreement
 - Agreement term/period

The supervising entity have the power to notify the **SIC** of potential violations of the terms of the agreement previously informed.

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Price Gouging

On April 7, 2020, aside from its antitrust powers, the Government issued a list of 26 basic products that will be subject to price monitoring, as a first step to possible price controls. The National Administrative Department of Statistics (“**DANE**”) and the **SIC** (under its consumer protection powers) have the power to conduct this monitoring to avoid price speculation and prevent monopolistic behavior. Within the monitored products are conventional and specialty protective elements such as masks and gloves, and some pharmaceutical products as well as food, non-alcoholic beverages and personal care products.

This monitoring process has been made for about 21 weeks, time in which it has been shown that food products present the most relevant and atypical fluctuations. However, the authority has only fined companies that produce and commercialize specialty protective elements and personal care products.

Notwithstanding the above, the Government has not determined yet if any of the monitored products will be subject to price control.

Misleading Advertising

On April 21, 2020, the **SIC**, within its consumer protection powers, issued a resolution forbidding retail and e-commerce platforms not to use the terms “Coronavirus”, “COVID” or “COVID-19” in any advertising, so as to ensure that the public is not misled to believe that any product has the ability to prevent, treat or cure COVID-19.

At the moment, the **SIC** has launched two investigations against a company and a natural individual for allegedly commercialize COVID-19 tests through digital platforms, without the sanitary approvals.

Enforcement Priorities

The authority reactivated its terms in all matters, all issues are being addressed.

Other Considerations

All antitrust matters are already being addressed by the **SIC**.

Curacao

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Competition Authority: The Fair Trade Authority Curacao (“**FTAC**”) (<https://ftac.cw/en/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No.

Investigations/Litigation

New Filings Accepted?

Filings need to be submitted in hard copy at the offices of the **FTAC** on weekdays between 09:00 -12:00 hrs. and 13:30 and 17:00 hrs.

Waiting Period Delays?

No announced delays or other considerations.

Communications With the Regulator

How are filings made/meetings handled?

Filings can be submitted in hard copy. Meetings are preferably held via telephone conference.

Other Antitrust Issues

Competitor Collaborations

The **FTAC** did not publish any official statements in relation with COVID-19, but the **FTAC** recognizes a temporary need for competitors to collaborate and to that extent issue an exemption to specific competitors. The general cartel and competitor collaboration regulations will remain in force. Businesses can apply for such exemption on an individual basis.

Price Gouging

The government of Curacao issued a *Ministerial Decree (P.B. 2020, no. 22, only available in Dutch)* which limits the profit margins on the prices of retail businesses in their sales to either other retailers (15 percent) and consumers (25 percent) for the following products: (i) latex gloves; (ii) hand sanitizer, (iii) disinfecting sprays, (iv) anti-bacterial wipes and (v) cleaning alcohol. Also, there is a similar regulation in place concerning the maximum profit margins on the sale of fruits and vegetables with a lot of vitamin C to other retailers (15 percent) or consumers (45 percent).

Misleading Advertising

There are no statements made by the **FTAC** in this regard.

Enforcement Priorities

There are no statements made by the **FTAC** in this regard.

Other Considerations

None.

Ecuador

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Competition Authority: The Superintendencia de Control del Poder de Mercado (“**SCPM**”) (<https://www.scpm.gob.ec/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No. Merger reviews were suspended during the March 16 - April 23 period only; currently, all filings are being processed following regular deadlines (including operations submitted under the recently introduced fast-track review). Additionally, all documents can now be sent to the **SCPM** digitally through its website.

Investigations/Litigation

Filings

All antitrust and unfair competition investigations are back to normal.

Delays/Other Considerations

None.

Communications With the Regulator

How are filings made/meetings handled?

On occasion of the mobility constraints, the **SCPM** introduced a 'virtual mailbox' on its website through which operators (who have a valid electronic signature) can submit any document without the need to physically attend to the agency's offices. Meetings and hearings are being carried out via digital platforms as well. Since social distancing measures are still in force in the country, some officials are working from home but they can easily be contacted by email and/or personal phone.

Other Antitrust Issues

Competitor Collaborations

The authority has not released any statement on the matter. The Ecuadorian competition law allows collaborations, without need of prior authorization, when they are capable of improving the production, commercialization and/or distribution of goods and services, as well as when they facilitate R&D (as long as they are not unduly restrictive).

Price Gouging

On March 29, 2020, the competition agency published a [press release](#) on its website reiterating that:

- Any change on prices must respond to the market dynamic and to the individual and independent decisions of the economic players, not to anticompetitive agreements or to guilds' recommendations.
- Manufacturers, suppliers, and vendors cannot take advantage of the emergency in order to increase their margins by means of unlawfully extracting the consumer surplus or in prejudice of the state's resources.

These declarations were added to its 'exhortation' made in a [similar note](#) on March 1, 2020.

Misleading Advertising

The authority has not released any statement on the matter.

Enforcement Priorities

The authority has not released any statement on the matter nor has intervened in the market.

Latin America and the Caribbean

Other Considerations

On one occasion of a [complaint for an allegedly excessive pricing on the public procurement of N95 face masks](#), the competition agency has insisted that, despite not being competent for regulating prices, it does have competence for investigating and sanctioning agreements among suppliers and vendors who rig public bids.

Mexico

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Competition Authority:

- The Federal Economic Competition Commission (*Comisión Federal de Competencia Económica*) (“**COFECE**”)
- The Federal Telecommunication Institute (*Instituto Federal de Telecomunicaciones*) (“**IFETEL**”)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No, **COFECE** will issue the resolutions of the merger control procedures faster if the concentration is focused on mitigate the effects of COVID-19.

Investigations/Litigation

Filings

Paper filing, the submission can be made in the regular schedule Monday to Friday from 8- 14 hrs. and 15- 16:30hrs. The Court and Tribunal are working on an ordinary basis. Recently, electronic filing became available.

Latin America and the Caribbean

Delays/Other Considerations

COFECE has recently launched a new portal for electronic filings, this is a new addition to that one for the notification of concentrations, which as of January must be electronically made.

Communications With the Regulator

How are filings made/meetings handled?

Filings for mergers are 100% electronic. As stated above, the new portal for electronic filings has been launched, and the paper filing is working as usual (but only for non-related merger filings). Officials are using phone calls and video conferences to communicate with interested parties. Meetings can also be held under appointment and followed by specific rules and hygiene protocols.

Other Antitrust Issues

Competitor Collaborations

COFECE released a statement that established in the context of the health emergency, agents can enter into collaborations with any other agent even though is a competitor as long as the agreements maintain or increase supply, meet demands, protect supply chains and avoid shortages and or hoarding of goods.

Price Gouging

COFECE has no faculties to pursue this type of conducts. The Office of the Federal Prosecutor for the Consumer (*Procuraduria Federal del Consumidor*) ("**PROFECO**") is the authority that pursue price gouging under an emergency declaration.

Misleading Advertising

COFECE has no faculties to pursue this type of conducts. The authority is **PROFECO**.

Enforcement Priorities

Health industry such as health services, medicines, healing material and other closely related will be constantly watched by **COFECE**.

Other Considerations

Appointments should be programmed in advance, to be scheduled the appointment should be requested before 4 p.m. of the previous working day.

Nicaragua

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Competition Authority: The Procompetencia (<https://procompetencia.gob.ni/>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No, all operations from authorities remain unaltered, at this time.

Investigations/Litigation

Filings

Yes, all operations from authorities remain unaltered, at this time.

Delays/Other Considerations

No.

Communications With the Regulator

How are filings made/meetings handled?

Please note that there is no alteration due to COVID-19 in Nicaragua. All processes remain the same, considering provisions already established in the law.

Latin America and the Caribbean

Other Antitrust Issues

Competitor Collaborations

Please note that there is no alteration due to COVID-19 in Nicaragua.

Price Gouging

Please note that there is no alteration due to COVID-19 in Nicaragua.

Misleading Advertising

Please note that there is no alteration due to COVID-19 in Nicaragua, no relevant information to report on this part.

Enforcement Priorities

Please note that there is no alteration due to COVID-19 in Nicaragua.

Other Considerations

Please note that there is no alteration due to COVID-19 in Nicaragua. All processes remain the same, considering provisions already established in the law.

Peru

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Competition Authority:

- National Institute for the Defense of Competition and the Protection of Intellectual Property (“INDECOPI”) (<https://www.indecopi.gob.pe/indecopi>)
- Commission of Free Competence (“INDECOPI”) (<https://www.indecopi.gob.pe/clc-que-hacemos>)
- Unfair Competition Bureau (“INDECOPI”) (<https://www.indecopi.gob.pe/ccd-que-hacemos>)

- Tribunal on Defense of Competition and Intellectual Property (“INDECOPI”) (<https://servicio.indecopi.gob.pe/buscadorResoluciones/tribunal.seam>)

Merger Review

New Filings Accepted?

With respect to mergers, the entering into force of *Emergency Decree N° 13-2019*, that establishes a regime of previous control of mergers and acquisitions (hereinafter, “**Merger Control Law**”), was extended by *Legislative Decree N° 1510*, issued on May 11, 2020. Therefore, this legal standard will now enter into force on March 1, 2021.

Additionally, on July 24, 2020 the draft Regulation of the **Merger Control Law** was published in the Peruvian official gazette “*El Peruano*” and was subject to a participation mechanism by which any citizen could submit their comments until August 22, 2020. It is important to consider that, pursuant to *Legislative Decree N° 1510*, the authority has until October 2020 to approve the regulation, which can only enter into force once the **Merger Control Law** comes into effect.

Therefore, currently, concentration operations are not subject to any previous control in Peru, except from concentrations regarding the electric sector (*Law N° 26876, Antimonopoly and Ant-oligopoly Law of the Electricity Sector*), that must obtain prior authorization by **INDECOPI**.

To this regard, **INDECOPI** has enabled a [link](#) (Virtual Desk) so that citizens can present their requests, complaints, written allegations, among others, electronically; as long as these are formally submitted in physical within the three following business days once the quarantine ends and **INDECOPI** opens its premises.

Citizens can choose to submit these documents only by electronic means, given that by *Legislative Decree N° 1497*, the obligation to physically present them, including those submitted prior to May 10, 2020 has been suspended until December 31, 2020.

Waiting Period Delays?

No.

Investigations/Litigation

Filings

Filings can be submitted physically or virtually and are currently being processed and attended by **INDECOPI**. No in-person hearings are taking place. The hearings are only being held virtually.

Delays/Other Considerations

According to *Supreme Decree N° 87-2020-PCM*, the calculation of deadlines for administrative procedures was suspended until June 10, 2020. Consequently, since June 11, 2020, **INDECOPI** restarted processing all the documents submitted by the parties.

Communications With the Regulator

How are filings made/meetings handled?

Communications with the regulator can be made electronically or physically. Citizens can choose to submit filings only electronically, as by *Legislative Decree N° 1497*, the obligation to physically present them, including those submitted prior to May 10, 2020 has been suspended until December 31, 2020.

Other Antitrust Issues

Competitor Collaborations

No.

Price Gouging

INDECOPI has released a communication reminding the consumer that, according to the Peruvian legislation, it has no competence to regulate market prices of any product. However, such entity can apply administrative sanctions to suppliers that do not respect the prices indicated in the products or that agree on price fixing.

In this sense, article 4 of *Legislative Decree N° 757, Law for the Growth of the Private Investment*, establishes that the prices are the result from the offer and demand, respecting the competition processes, with no exemptions than specific laws for specific matters. However, this law does not establish competence for any control over prices within a state of emergency.

INDECOPI has stated that it cannot control the prices from the market. In addition, any other regulation proposal or project norm seeking a control of prices must respect the legislation and the constitutional aspects related to the Peruvian economic model.

Therefore, although article 234 of the *Peruvian Criminal Code* states that the producer, manufacturer or merchant that sells products officially considered of primary necessity at prices higher than those established by the competent authority, will be punished with a custodial sentence of one to three years and with a 90 to 180 day-fine; in reality this penalty would be difficult to apply as there is no official price list of the necessary goods.

On August 29, 2020, *Law N° 31040* was published in the official gazette “*El Peruano*”, that modifies the *Peruvian Criminal Code* by incorporating abuse of economic power -related to antitrust practices-, hoarding and price speculation as conducts that can be criminally sanctioned. This law also modifies the *Consumer Protection Code* by incorporating the prohibition of hoarding and speculating during an emergency situation.

Misleading Advertising

INDECOPI has released a [communication](#) on March 16, 2020, when the quarantine just started, encouraging citizens, especially influencers, social media managers and community managers to use digital channels with responsibility regarding the advertisements related to essential goods and products, as well as medicines and sanitary products during the State of Emergency and the mandatory social isolation given by the Government to prevent the spread of COVID-19. In this order of ideas, **INDECOPI** asked professionals and personalities related to the advertisement industry to be careful when promoting a product through their social media and digital platforms.

On the other side, **INDECOPI** encouraged consumers to stay informed about essential products. **INDECOPI** is constantly monitoring the content released by influencers within their social media channels, especially those related to food, sanitary and medicine products. In this regard, it has issued a communication stating that it will be vigilant in monitoring anticompetitive conduct regarding essential or necessary goods, pharmaceuticals, banking services, transport, among others (e.g. misleading advertising, false advertising). In case **INDECOPI** finds any infraction regarding this matter it could impose a penalty up to S/. 3,000,000, almost USD 1,000,000.

For this purpose, **INDECOPI** has enabled an electronic form in which citizens can report any anticompetitive conducts. Moreover, citizens may also report such anticompetitive conducts through the following phone numbers: (01) 224-7777 for Lima and 0-800-4-4040 for free calls from provinces, from 8:30 a.m. to 5:30 p.m.

Currently, **INDECOPI** has disciplined 46 companies regarding misleading advertising related to products that supposedly had therapeutic and preventive properties against COVID-19. Three advertisements were removed from the market: two of them promoted COVID-19 treatment products and one promoted a disinfectant that was deemed to eliminate the virus from the environment.

Latin America and the Caribbean

Enforcement Priorities

INDECOPI issued a communication stating that it continues to coordinate with other state entities to provide solutions to consumer problems through business associations and through the companies that provide essential goods and services, urging them to apply good practices in order to comply with the normal supply of products and services during the national emergency.

Regarding antitrust practices, on June 3, 2020, the *Guidelines on Competition Compliance Programs* was published in the official gazette “*El Peruano*”, that seeks to promote that companies, on their own initiative, implement policies to comply with the rules of free competition, as well as provide guidelines when the Free Competence Commission dictates Compliance Programs as corrective measures. Pursuant to these guidelines, a company could request the reduction of the penalty if it has implemented an effective compliance program.

On June 26, 2020, **INDECOPI** published the *Informational Guidelines* about anticompetitive agreements among companies in labor markets, whose purpose is to guide companies, employers and human resources professionals on the problems associated with the implementation of agreements or practices between companies that restrict competition in the workplace; specifically, with regard to the hiring of workers and the setting of their salaries or other employment benefits.

Moreover, on July 31, 2020, the Guidelines for down raids carried out by the Technical Secretariat of the Free Competence Commission within any preliminary investigation related to antitrust practices, were published in the official gazette “*El Peruano*”. These Guidelines develop the rights and obligations that the investigated companies must comply with, as well as the rules that the authority must follow during the down raid.

Other Considerations

The [electronic form](#) created by **INDECOPI** may be used to report unfair competition and antitrust practices, as well as activities that may affect all consumers. Citizens may also report such conducts through the following phone numbers: (01) 224-7777 for Lima and 0-800-4-4040 for free calls from provinces, from 8:30 a.m. to 5:30 p.m.

Queries, doubts and complaints may be also submitted to the institutional email address: sacreclamo@indecopi.gob.pe.

Regarding the Telecommunications sector, Osiptel is the regulator in charge of the revision of proceedings related to competition matters. This Entity is currently attending all the administrative procedures that were in process.

Any complaints and requirements related to telecommunication services could be also submitted by social media networks, emails and telephone (Fonoayuda 1844).

Uruguay

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Competition Authority:

- For all unregulated markets: (<http://competencia.mef.gub.uy/>)
- Banking and financial markets: (<https://www.bcu.gub.uy/Paginas/Default.aspx>)
- Energy and water markets: (<https://www.gub.uy/unidad-reguladora-servicios-energia-agua/>)
- Telecom markets: (<https://www.gub.uy/unidad-reguladora-servicios-comunicaciones/>)

Merger Review

New Filings Accepted?

Yes, and they have to be made in person. The new prior authorization regime is fully into force, and the regulator has published the new notification form. The regulator is working on new guidelines. We are making filings as per usual and not having any difficulties.

Waiting Period Delays?

No. We have received clearance recently under the new fast track procedure (phase I) and the legal waiting period was respected by the Competition Commission.

Latin America and the Caribbean

Investigations/Litigation

Filings

Yes, submissions still have to be made in person at the regulator. However, the regulator sends its resolutions and reports electronically to those parties that prefer this way of dealing. Consultations on progress of ongoing cases can also be made electronically at competencia@mef.gub.uy.

Delays/Other Considerations

No. We suggest being proactive and contacting the regulator for better results.

Communications With the Regulator

How are filings made/meetings handled?

Filings to the regulator still have to be made in person. The regulator is taking measures to reduce meetings in person (e.g. sending its resolutions and reports via email and accepting consultations on progress in cases via email too). All meetings we have requested recently have been made online via Zoom.

Other Antitrust Issues

Competitor Collaborations

Unfortunately, unlike in several other jurisdictions, the regulator has not published anything that would in any way reduce the risk of violating the per se rule against hardcore cartels in light of the current COVID-19 situation. Therefore, any cooperation or agreement among competitors on price, output, market sharing or participation in tenders, even if the ultimate goal is to participate in the fight against COVID-19, could be considered per se illegal and trigger the usual fines.

We are not aware of any efforts from the regulator to create a temporary exception and would advise any client facing such questions to raise them with us, the regulator, or the government before taking any action.

Price Gouging

On April 9, 2020, the government updated the price list for a basket of basic consumer goods on its [website](#). The list publishes minimum, maximum, and average prices for several basic consumer goods (all food), based on data collected from the country's main supermarket chains by the Service of Information on Prices to Consumers. This is just a survey to give customers a reference of what the average price for basic food in the country is and is meant to curb excessive pricing. The list is, however, merely indicative and non-binding on businesses. At best, it might be used as an indicator of market prices in a case for abuse of dominant position based on an excessive pricing theory of harm.

Latin America and the Caribbean

On May 8, 2020, citing allegedly unjustified price increases and cases of ‘abuse’, the government stepped up its measures and officially announced that it had reached ‘voluntary agreements to cap prices’ with several trade associations (the supermarkets’ association, the grocery importers and wholesalers’ association, the industrial chamber, the meat processing industry chamber and the food producers’ association) whereby these market players would commit to maintain (‘freeze’) prices of basic consumer goods for an undisclosed period time (some press reports mentioned 45 days, while other stated 90 days).

Based on the very limited disclosure to the public, it would appear in fact that the government is not a party to such agreements. The agreements are reached at the level of each trade association, with their respective members merely ratifying its content in separate documents. It is also unclear whether they commit to a maximum price, or simply promise to maintain current prices.

At the time, the government took a rather ambiguous stance. In the absence of more specifics we are left to speculate, but the mention of the concept of ‘abusive’ prices was seen by some as a signal that the government could use Uruguay’s competition law (*Law No. 18,159*) to go after infringers.

Uruguay’s competition law provides for potentially significant sanctions against offenders (ranging from, depending on the gravity of the conduct, mere administrative warnings to fines of up to 10% of the infringer’s turnover). This could, however, prove difficult in practice since antitrust cases under an ‘abusive price’ theory of harm are reserved for players that enjoy a dominant position in their respective markets.

As mentioned above, up to this date measures have mainly affected basic consumer products and goods that were suddenly rendered necessary in order to fight COVID-19 (namely: alcohol-based hand sanitizers, face masks, certain soaps and tissues, and bleach). A list of the 84 categories or families of products affected by price controls has filtered to the press.

Also, the referred price control agreements concern not only the main supermarket and retail outlets that sell directly to consumers, but also go higher upstream in the supply chain at the level of wholesalers, producers and importers.

These measures have taken the form of voluntary agreements at the level of each of the main trade associations. Members of these trade associations all commit, sometimes in a written document, to maintain (‘freeze’) current prices for a given period of time (ranging from 45 to 90 days), starting from the date on which such agreements were reached (May 8, 2020). Upon expiry of these time periods, market players will no longer be bound by such agreements.

Latin America and the Caribbean

No agency or government body has so far been specifically appointed to enforce these measures. The government did, however, publicly announce that it would be closely monitoring prices and that, should any abusive prices be reported, it would involve the consumer protection unit of the Ministry of Economy. It remains to be seen whether antitrust law can realistically be applied in practice to allegedly ‘abusive’ price increases during the COVID-19 pandemic, in particular against companies that are not in a dominant position in their respective markets.

At this stage, we do not expect these voluntary price agreements to go beyond their initial term. While there are decree-laws in Uruguay that enable the government to control prices of any goods at any given point in time, the country has a longstanding tradition of commitment to free market economics.

Misleading Advertising

No COVID-19 specific measures taken yet beyond the pre-existing laws already in place.

Enforcement Priorities

The regulator has not published any new enforcement priorities specific to COVID-19.

Other Considerations

Consultations of ongoing cases can be sent via email to the regulator at competencia@mef.gub.uy.

Canada

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Competition Authority:

- The Competition Bureau (“Bureau”) (<https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/home>)
- The Competition Tribunal (“Tribunal”) (<https://www.ct-tc.gc.ca/en/home.html>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No, however the **Bureau** has acknowledged that it may have difficulties meeting published service standards.

Parties engaged in complex mergers are encouraged to contact case teams and management in the *Merger Directorate*. If service standards cannot be met, the **Bureau** will make efforts to communicate realistic timelines to the parties.

Investigations/Litigation

Filings

Tribunal: paper filings will not be accepted for the time being and parties should use the electronic filing system. In-person hearings are temporarily suspended but the Tribunal will hear urgent matters by teleconference.

Delays/Other Considerations

The Commissioner [stated](#) that investigations involving face-to-face interviews with Immunity/Leniency applicant witnesses, the operationalization of solicitor-client protocols, meetings with complainants, and plea or other settlement negotiations may suffer delays.

Communications With the Regulator

How are filings made/meetings handled?

Filings to the **Bureau** can be made electronically. The **Bureau** is replacing hard copy letters with an e-mail from the signatory.

The **Tribunal** remains in operation, but its premises are closed until further notice. Paper filings will not be accepted for the time being and parties should use the electronic filing system. In-person hearings are temporarily suspended but the **Tribunal** will hear urgent matters by teleconference.

Other Antitrust Issues

Competitor Collaborations

The **Bureau** released a statement on April 8, 2020 recognizing that competitor collaborations of “*limited duration and scope*” may be required to ensure the supply of products and services “*that are critical to Canadians*” during these exceptional times. The Bureau signaled that it will

“generally refrain” from scrutinizing temporary business collaborations undertaken for those purposes that are “executed in good faith and do not go further than what is needed”.

For firms wishing to obtain greater certainty, the **Bureau** has created a team to assess the proposed collaborations on the basis of information outlined in the **Bureau’s** statement and provide informal guidance to facilitate rapid decisions to enable businesses to support the crisis response efforts.

Price Gouging

Several provinces have declared states of emergency giving the government the power to control the price of essential services.

On March 28, 2020, the Ontario Government has issued an [emergency order](#) that retail businesses and individuals in Ontario cannot charge unfair prices for “necessary goods” including (i) masks and gloves; (ii) non-prescription medications for treating COVID-19 symptoms; (iii) disinfecting agents, and (iv) personal hygiene products.

In addition, on April 19, 2020, the B.C. Minister of Public Safety [announced](#) new ticketing measures to tackle price gouging. Police and other enforcement officers now have the ability to issue \$2,000 violation tickets for price gouging and the reselling of medical supplies and other essential goods. The province is also working with Consumer Protection BC (“**CPBC**”) to fight price gouging – **CPBC** will be the first point of contact for all price gouging complaints.

Misleading Advertising

[Health Canada](#) is coordinating with other government departments such as the [Competition Bureau](#) to address the issue of false and misleading claims related to COVID-19. The Commissioner has [stated](#) that the **Bureau** will be vigilant in monitoring anti-competitive conduct (e.g. deceptive marketing for products claiming to prevent the virus).

Enforcement Priorities

The Commissioner [emphasized](#) that Canadian competition law accommodates pro-competitive collaborations to support delivery of goods and services, and the **Bureau** will take a reasonable and principled approach to enforcement. Urgent competition-related issues may be prioritized over ongoing enforcement matters (e.g. products that claim to prevent/treat COVID-19).

Other Considerations

Telephone services offered by the **Bureau** will be unavailable until further notice (Information Centre, Whistle-blowing Initiative, Tip Line, Merger Intelligence and Notification Unit, and Media Relations line).

On April 29, 2020, the **Bureau** issued a [Position Statement](#) in connection with American Iron & Metal Company Inc.'s ("**AIM**"). This transaction is a reminder that the **Bureau** is open to considering failing firm claims in appropriate cases and provides additional guidance for the types of information that are most relevant for a timely and efficient analysis of a failing firm defense. Key takeaways include: (i) reinforcement of prior statements that the Bureau will closely scrutinize non-notifiable transactions that may raise competition concerns; (ii) the Bureau has not changed its approach to the analysis of failing firms in light of COVID-19; (iii) merging parties should consider making failing firm submissions to the Bureau as early as possible, including detailed information about the financial status of the failing firm, steps taking to shop the failing firm's business and an explanation for no competitively preferable alternatives to the merger; and (iv) merging parties should consider retaining a financial or accounting expert at the outset.

USA, Federal

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Competition Authority:

- The Federal Trade Commission ("**FTC**") (<https://www.ftc.gov/>)
- Department of Justice, Antitrust Division ("**DOJ**") (<https://www.justice.gov/atr>)

Merger Review

New Filings Accepted?

Yes.

Waiting Period Delays?

No, there has been no delay or extension of the statutory waiting periods. The **FTC** and **DOJ** initially suspended the granting of early termination for all transactions, but the agencies subsequently resumed granting early terminations again on March 30.

Investigations/Litigation

Filings

The **FTC** and **DOJ** have stopped accepting all paper filings and have implemented a temporary e-filing system for the submission of Hart-Scott-Rodino premerger notification filings.

Delays/Other Considerations

The **FTC** and **DOJ** announced that they would seek extensions for all timing agreements that had been signed with parties whose transactions are under investigation and it appears that the **FTC** is asking all merging parties for 120 days to review materials submitted after the parties have certified compliance with second requests.

The **FTC** and **DOJ** remain fully operational and generally have not curtailed the scope and thoroughness of their investigations due to current limitations caused by the crisis. However, both agencies have expressed a willingness to consider unique circumstance on a case-by-case basis and will adjust timing and work to reduce burdens on companies and individuals as appropriate.

In addition, the **DOJ** has submitted to congress proposed legislation that would, among other things, toll the deadlines in antitrust merger reviews and criminal enforcement programs for short periods of time until after the termination of the national emergency declared by the president on March 13, 2020.

Congress took no action on the proposed legislation and all deadlines are running as normal.

Communications With the Regulator

How are filings made/meetings handled?

Virtually all **FTC** and **DOJ** employees are now working remotely and all communications are by phone or email.

Meetings: Almost all internal and all external meetings continue to be handled by telephone or videoconference, including Front Office and Commission meetings.

Other Antitrust Issues

Competitor Collaborations

The **FTC** and **DOJ** have established an expedited antitrust review process for conduct and collaborations aimed at protecting health and safety during the COVID-19 pandemic.

The **DOJ** completed its first response to a business review letter pursuant to the new expedited review procedure and will not challenge collaborative efforts of McKesson Corporation, Owens & Minor Inc., Cardinal Health Inc., Medline Industries Inc., and Henry Schein Inc. (together, Medical Supplies Distributors) to expedite and increase manufacturing, sourcing, and distribution of personal-protective equipment (“**PPE**”) and COVID-19-treatment-related medication.

In April, the **DOJ** announced that it would not challenge the collaborative efforts of AmerisourceBergen Corporation to identify global supply opportunities, ensure product quality, and facilitate product distribution of medications and other healthcare supplies to treat COVID-19 patients.

In May, the **DOJ** announced that it would not challenge collaborative efforts between the National Pork Producers Council and the U.S. Department of Agriculture to respond to a pork supply shortage caused in part by processing plant closures in response to the COVID-19 pandemic.

In July, the **DOJ** announced that it would not challenge a proposed collaboration among pharmaceutical companies to share information about developing antibody treatment for COVID-19.

The **FTC** and **DOJ** also issued a joint statement affirming the importance of competition in American labor markets, especially with regards to workers on the front lines of the COVID-19 pandemic—including doctors, nurses, first responders, and other essential service providers such as those who work in grocery stores, pharmacies, and warehouses.

Price Gouging

The **DOJ** announced that it is focused on preventing hoarding and price gouging for critical supplies during the crisis. To combat this misconduct, the President issued an *Executive Order*, which prohibits hoarding of designated items, and the Attorney General has created the COVID-19 Hoarding and Price Gouging Task Force.

While the majority of price gouging enforcement has occurred at the state level, the **DOJ**'s Hoarding and Price Gouging Task Force has reportedly seized hundreds of thousands of pieces of personal protective equipment that were being hoarded or offered for sale at a significant mark-up and redistributed that equipment to healthcare providers.

Misleading Advertising

The **FTC** and the Food and Drug Administration ("**FDA**") have sent multiple warning letters to sellers of scam COVID-19 treatments, companies making unsupported claims that their products can treat or prevent COVID-19, and to VoIP service providers and other companies 'assisting and facilitating' illegal COVID-19-related telemarketing calls.

The **FTC** has also provided a set of tips for the public on how to avoid COVID-19 Scams.

The **FTC** continues to actively enforce the consumer protection laws against deceptive marketing and scams, especially those related to the COVID-19 pandemic. Since March, the **FTC** has initiated at least 6 actions alleging COVID-19-related fraud or deception and has sent hundreds of warning letters regarding COVID-19-related marketing claims.

Enforcement Priorities

Prioritization: The **DOJ** is focusing their law enforcement activities on the following categories of offenses related to the COVID-19 crisis: frauds and other illegal schemes, sale of fake drugs and cures, malicious hoaxes or threats that target specific individuals or the general public, hoarding medical supplies or devices beyond what is reasonably needed on a daily basis, or for the purpose of selling them in excess of prevailing market prices, and conspiracies between individuals or businesses to fix prices, rig bids, or allocate markets with respect to COVID-19 material.

Since March 22, 2020, when the **DOJ** announced its first enforcement action against COVID-19-related fraud, the **DOJ** has announced more than 300 COVID-19-related fraud enforcement actions.

Other Considerations

Despite the challenges created by the COVID-19 pandemic, the Federal antitrust agencies have continued to actively investigate anticompetitive behavior, challenging such behavior in criminal, civil and administrative litigation, and have continued to aggressively review mergers for competition concerns. In addition to the actions described above, since January, the **FTC** has challenged five transactions and the **DOJ** has challenged six transactions. In addition, at least seven other transactions were abandoned by the Parties after antitrust concerns were raised.

USA, Arizona

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Competition Authority: The Office of the Arizona Attorney General (“**AG**”) (<https://www.azag.gov/>)

Merger Review

New Filings Accepted?

No filing regime.

Waiting Period Delays?

N/A

Investigations/Litigation

Filings

Complaints may be filed online, by email, by fax, or by regular mail to the **AG**. Although the **AG**’s office remains open to the public, the **AG** has encouraged that contact be made via phone or email whenever possible.

Delays/Other Considerations

Several Arizona courts have restricted operations, including in-person hearings and trials.

Communications With the Regulator

How are filings made/meetings handled?

No single policy; varies.

Other Antitrust Issues

Competitor Collaborations

No update.

Price Gouging

Arizona does not have a price gouging statute. However, on March 11, 2020, Governor Douglas Ducey issued an executive order requiring that the Arizona Department of Health Services and Arizona health regulatory boards prohibit, investigate, and take action against any licensed health professional or healthcare institution that engages in price gouging in relation to COVID-19 diagnosis and treatment-related services. This order will remain in effect until Arizona's state of emergency relating to COVID-19 is terminated.

Misleading Advertising

The *Arizona Consumer Fraud Act* ("**ACFA**") prohibits deceptive and false advertising. The **ACFA** provides for both public and private enforcement.

The AG has sent multiple cease-and-desist letters to Arizona businesses concerning false promises of COVID-19 immunity. On April 8, 2020, the **AG** and United States Attorney for Arizona announced a joint federal, state, and local task force to combat COVID-19-related fraud. The **AG** has also issued multiple statements that it will closely monitor allegations of fraud related to COVID-19 and has established a webpage concerning COVID-19-related scams at <https://www.azag.gov/consumer/covid-19>.

Enforcement Priorities

Consumer fraud, false advertising.

Other Considerations

No update.

USA, Louisiana

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Competition Authority: The Louisiana Attorney General (<https://www.ag.state.la.us/>) The current Louisiana Attorney General, Jeff Landry, serves as an officer and director of the National Association of Attorneys General (“NAAG”) works closely with the NAAG Multistate Antitrust Task Force in their multistate antitrust initiatives. Attorney General Landry also actively supports the Federal Task Force to Investigate and Prosecute COVID-19 Fraud and Hoarding of Critical Medical Supplies.

Merger Review

New Filings Accepted?

No filing regime.

Waiting Period Delays?

N/A

Investigations/Litigation

Filings

Complaints and communications with staff may be filed electronically. Attorney General Landry also will frequently make himself and his staff available for meetings with local counsel and their clients to discuss commercial transactions and conduct relevant to Louisiana.

Delays/Other Considerations

Louisiana state law imposes rocket docket features at the trial court and appellate court levels on all antitrust claims filed in state court. The state courts are now generally open and moving forward with bench and jury trials. Louisiana law permits the judge in his or her discretion to permit witnesses to testify by video or other electronic means.

Communications With the Regulator

How are filings made/meetings handled?

No single policy. Varies depending on wide range of factors.

Other Antitrust Issues

Competitor Collaborations

Louisiana state antitrust laws mirror Sections 1 and 2 of the *Sherman Act*. Louisiana also has an expansive unfair trade practices statute with a private right of action for competitors and consumers.

Price Gouging

Louisiana has a specific price gouging statute which allows for the filing of civil and criminal penalties. Price gouging is defined as the increase in prices or value for goods and services that are higher than the prices ordinarily charged for comparable goods and services at or immediately before the time of a state of emergency. Once a state of emergency is declared by the governor or parish president, a price gouging ban is placed on the area declared to be under the state of emergency. The ban may remain in effect for up to 30 days after the state of emergency ends.

Misleading Advertising

Misleading and false advertising is prohibited by the unfair trade practice statute in Louisiana. The Louisiana Attorney General has standing under the statute to seek injunctive relief and penalties.

Enforcement Priorities

Price gouging, consumer fraud, and corruption are priority.

Other Considerations

New Orleans and surrounding communities have been hit particularly hard by the current crisis. There is heightened sensitivity in this jurisdiction to consumer fraud and corruption related to government programs.

USA, Massachusetts

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Competition Authority: The Massachusetts Attorney General (“AG”) (<https://www.mass.gov/orgs/office-of-attorney-general-maura-healey>)

Merger Review

New Filings Accepted?

N/A

Waiting Period Delays?

N/A

Investigations/Litigation

Filings

Most Massachusetts court clerk's offices are open and accepting filings in person, but litigants are encouraged to complete filings electronically or by mail whenever possible.

Delays/Other Considerations

Effective July 13, 2020, most Massachusetts courthouses have reopened, but all courts continue to conduct most business virtually -- by telephone, videoconference and email.

If a restraining order, injunction, or similar order was issued before March 17, 2020, after a hearing where the defendant appeared and had a chance to be heard, or failed to appear, that order remains in effect until the matter is rescheduled and heard, unless otherwise ordered by the

court. Civil statutes of limitation were tolled from March 17, 2020 through June 30, 2020. Criminal statutes of limitation are tolled from March 17, 2020, through September 30, 2020.

In addition, all jury trials, in both criminal and civil cases, were continued until at least September 8, 2020. On July 31, the Massachusetts Supreme Judicial Court's Jury Management Advisory Committee released a report recommending a phased resumption of both criminal and civil jury trials and outlining recommended practices for each phase. Before acting on the report, the Supreme Judicial Court invited public comment on the proposed recommendations in August, but no further action has been announced.

Communications With the Regulator

How are filings made/meetings handled?

To the extent possible, all of the **AG's** staff have shifted to remote work. Walk-ins to the **AG's** physical office locations will not receive in-person service. Instead, the **AG** is encouraging everyone to file complaints online or call the office. All of the **AG's** hotlines remain fully staffed during regular business hours, including the consumer Attorney General's Consumer Advocacy and Response Division's Consumer Hotline.

Other Antitrust Issues

Competitor Collaborations

Prior to the COVID-19 crisis, the Massachusetts **AG** joined with Attorneys General from ten other states and the District of Columbia in several multistate investigations and enforcement actions against worker no-poach agreements. While there have been no announcements of new investigations during the current crisis, the joint announcement earlier this year from the Federal Trade Commission and U.S. Justice Department that they remain focused on possible collusion in U.S. Labor Markets is a reminder that the state Attorneys General, including the Massachusetts **AG** are likely on the lookout for companies attempting to exploit the current circumstances to suppress competition in the labor market.

Price Gouging

The Massachusetts **AG** announced an amendment to a statewide regulation that classifies selling a product "*necessary for the health, safety or welfare of the public for an amount that represents an unconscionably high price*" as illegal. The **AG's** Office has announced that it will be watching retailers that inflate prices on products like hand sanitizer and face masks very closely. The Massachusetts law against price gouging previously only banned selling petroleum products for an unconscionably high price. It has been widely reported that the **AG** received hundreds of complaints of alleged price gouging.

North America

Misleading Advertising

N/A

Enforcement Priorities

To date, antitrust enforcement has not been a priority for the Massachusetts **AG**, instead the **AG**'s top current enforcement priorities include price gouging, debt collection and the failure to appropriately provide refunds related to disruptions caused by the current crisis (especially travel organizations and colleges). For more information regarding the Massachusetts **AG**'s actions in response to the current crisis see <https://www.stateaginsights.com/>.

Other Considerations

Effective August 1, 2020, all visitors and returning residents entering Massachusetts must (A) complete the Massachusetts Travel Form prior to arrival, unless visiting or returning from a lower-risk state designated by the Massachusetts Department of Public Health and (B) quarantine for 14 days or provide a negative COVID-19 test result that has been administered up to 72-hours prior to arrival in Massachusetts. Failure to comply may result in a \$500 fine per day.

USA, New Jersey

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Price Gouging

Governor Phil Murphy signed *Executive Order No. 103*, which declares a state of emergency across all 21 counties in the state as of March 9, 2020. New Jersey's law against price gouging is now in effect. This law prohibits excessive price increases during a declared state of emergency, or for 30 days after the termination of the state of emergency.

Excessive price increases are defined as price increases that are more than 10 percent higher than the price at which merchandise was sold during the normal course of business prior to the state of emergency. See New Jersey's *Consumer Fraud Act* for more information.

Anti-Hoarding of Certain Medications Administrative Regulation

Addressing concerns of potential drug shortages caused by the inappropriate prescribing and hoarding of drugs touted by some as possible treatments for COVID-19, Attorney General Gurbir S. Grewal and the Division of Consumer Affairs today announced statewide restrictions for prescribing and dispensing those medications as set forth in *Division of Consumer Affairs Administrative Regulation No. 2020-01* ("**Regulation No. 2020-01**"). The Division's order, which applies effective immediately and until further notice, mandated that any prescription for a drug in short supply due to its use in possible treatment of COVID-19, such as hydroxychloroquine and chloroquine, must include a diagnosis or diagnostic code and should be supported in the patient's record. Prescriptions without this information are invalid and may not be filled by pharmacists.

DCA Administrative Order No. 2020-03 supersedes **Regulation No. 2020-01**, confirming restrictions on prescribing and dispensing of certain drugs in short supply like chloroquine and hydroxychloroquine, and providing additional exceptions. Prescribers should not write prescriptions for medications designed to treat COVID-19 if such treatment does not fall within the scope of the prescriber's practice. However, such restrictions do not apply to patients in facilities like post-acute care facilities, assisted living facilities, nursing homes, and skilled nursing facilities.

Other Considerations

Establishment of Federal-State COVID-19 Fraud Task Force: On March 30, 2020, U.S. Attorney Craig Carpenito, New Jersey Attorney General Gurbir S. Grewal, and New Jersey Acting State Comptroller Kevin D. Walsh announced the formation of a joint federal-state task force to investigate and prosecute a wide range of misconduct arising from the COVID-19 pandemic, including the unlawful hoarding of medical supplies, price gouging, charity scams, procurement fraud, insurance fraud, phishing schemes, and false and misleading investment opportunities.

The Task Force warned New Jerseyans about the most common types of COVID-related frauds and misconduct, including:

- **Unlawful hoarding:** The Department of Health and Human Services ("**HHS**") issued a Notice pursuant to President Trump's *Executive Order 13910* and the *Defense Production Act*, which designated health and medical resources necessary to respond to the spread of COVID-19 that are scarce or the supply of which would be threatened by excessive accumulation. These designated materials are subject to the hoarding prevention measures authorized under the *Executive Order* and the *Act*. Individuals or businesses that violate the *Act* will be subject to prosecution.
- **Price-gouging:** Individuals and businesses may sell essential goods, like hand sanitizer, for significantly higher prices than in a non-emergency setting. New Jersey's price gouging law bans excessive price increases during a declared state of emergency and for 30 days after it ends. A price increase is considered excessive if the new price is more than 10 percent higher than the price charged during the normal course of business prior to the emergency. Price gouging violations are punishable by fines of up to \$10,000 for the first violation and \$20,000 for each subsequent violation.
- **Treatment scams:** Scammers are offering to sell fake cures, vaccines, and advice on unproven treatments for COVID-19.

- **Supply scams:** Scammers are creating fake shops, websites, social media accounts, and email addresses claiming to sell medical supplies currently in high demand, such as surgical masks. When consumers attempt to purchase supplies through these channels, fraudsters pocket the money and never provide the promised supplies.
- **Provider scams:** Scammers are also contacting people by phone and email, pretending to be doctors and hospitals that have treated a friend or relative for COVID-19, and demanding payment for that treatment.
- **Charity scams:** Scammers are soliciting donations for individuals, groups, and areas affected by COVID-19.
- **Phishing scams:** Scammers posing as national and global health authorities, including the World Health Organization (“**WHO**”) and the Centers for Disease Control and Prevention (“**CDC**”), are sending phishing emails designed to trick recipients into downloading malware or providing personal identifying and financial information.
- **App scams:** Scammers are also creating and manipulating mobile apps designed to track the spread of COVID-19 to insert malware that will compromise users’ devices and personal information.
- **Investment scams:** Scammers are offering online promotions on various platforms, including social media, claiming that the products or services of publicly traded companies can prevent, detect, or cure COVID-19, and that the stock of these companies will dramatically increase in value as a result. These promotions are often styled as “*research reports,*” make predictions of a specific “*target price,*” and relate to microcap stocks, or low-priced stocks issued by the smallest of companies with limited publicly available information.

USA, South Carolina

Wyche

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Competition Authority: The *South Carolina Code 39-5-145*. Price gouging during emergency; definitions; penalty; evidence of knowledge or intent (https://www.lawserver.com/law/state/south-carolina/sc-code/south_carolina_code_39-5-145)

Merger Review

New Filings Accepted?

N/A

Waiting Period Delays?

N/A

Investigations/Litigation

Filings

Electronic filings are being accepted in most courts.

Delays/Other Considerations

In person hearings have been suspended in most courts although some courts continue to hold in-person hearings. Most courts are insisting that cases move forward and that counsel use alternative means to obtain depositions in most instances.

Communications With the Regulator

How are filings made/meetings handled?

Communications with the Attorney General must be remote.

North America

Other Antitrust Issues

Competitor Collaborations

No change.

Price Gouging

South Carolina's anti-price gouging law's provisions are now effective due to declaration of emergency.

Misleading Advertising

N/A

Enforcement Priorities

The attorney general is prioritizing enforcement of the anti-price gouging law.

Other Considerations

N/A

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Competition Authority: The Tennessee State Attorney General's Office Division of Consumer Affairs/Consumer Protection Division (<https://www.tn.gov/attorneygeneral/working-for-tennessee/consumer/about-us.html>)

Merger Review

New Filings Accepted?

N/A (the Attorney General does not conduct merger reviews).

Waiting Period Delays?

N/A (the Attorney General does not conduct merger reviews).

Investigations/Litigation

Filings

Filings are currently being accepted.

Delays/Other Considerations

The Attorney General has not indicated that processing of complaints is currently delayed.

Communications With the Regulator

How are filings made/meetings handled?

Filings are accepted online via [complaint form](#). Once the complaint is filed, the business will be sent a copy of the complaint along with a letter asking the business to respond directly to complainant to resolve the dispute. In the letter the Attorney General also asks the business to inform

them of any resolution so that this information may be included in the file. Complainant will receive a copy of this letter. It takes approximately 30 days for Attorney General staff to process a complete complaint.

Other Antitrust Issues

Competitor Collaborations

The Attorney General has not posted guidance on competitor collaborations.

Price Gouging

The Attorney General has posted [guidance](#) on “Price Gouging FAQs.”

The Attorney General conducted an expedited investigation into the alleged price gouging involving emergency and/or medical supplies by two individuals during the COVID-19 crisis. The Attorney General reached a resolution with the individuals prohibiting them from selling emergency or medical supplies grossly in excess of the price generally charged during any declared state of abnormal economic disruption related to the COVID-19 pandemic. At the time the Attorney General commenced the investigation, he announced that *“[w]e will not tolerate price gouging in this time of exceptional need, and we will take aggressive action to stop it. . . . During this pandemic, we ask that you report suspicious activity to the Division of Consumer Affairs and refrain from threatening or hostile communication with individuals or businesses you may suspect are price gouging. Our team will review complaints closely and we are prepared to act to protect Tennesseans.”*

Misleading Advertising

The Attorney General posted an [alert](#) to “Avoid COVID-19 Scams,” including fake/misleading product claims.

Enforcement Priorities

The Attorney General has not posted guidance specifically indicating enforcement priorities, but it appears from the Attorney General’s [announcement](#) and [alert](#) that there is a focus on price gouging and consumer scams.

Other Considerations

The Attorney General has not posted guidance on other considerations.

USA, Texas

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Competition Authority: The Office of the Attorney General of Texas (“AG”) (<https://www.texasattorneygeneral.gov/>)

Merger Review

New Filings Accepted?

No filing regime exists.

Waiting Period Delays?

N/A

Investigations/Litigation

Filings

Complaints and communications with staff may be filed electronically.

Delays/Other Considerations

Some Texas courts are partially closed or temporarily closed:

- *Current & Upcoming Closures*, Texas Judicial Branch, <https://www.txcourts.gov/programs-services/court-security/emergency-court-preparedness/closures/> (noting that some county courts are closed until further noticed).
- The Western District of Texas remains open, subject to restrictions imposed by a judge or judges in each division. See <https://www.txwd.uscourts.gov/coronavirus-covid-19-guidance/>.
- Several courts in the Southern District of Texas are closed until further notice. See <https://www.txs.uscourts.gov/page/covid-19-general-and-special-orders>.)

Some courts have postponed all non-essential civil and criminal trials and hearings until further notice:

- The Texas Supreme Court has postponed jury trials until at least October 1. See *Court Coronavirus Information*, Texas Judicial Branch, <https://www.txcourts.gov/court-coronavirus-information/court-guidance/>.
- Some courts have begun to hold non-essential hearings remotely, and reserved in-person hearings only in circumstances deemed necessary and essential. See, e.g., COVID-19 Operating Plan for the Bexar County Judiciary, at 2, 3, <https://www.bexar.org/DocumentCenter/View/27077/COVID-19-Operating-Plan-for-Bexar-County-Judiciary-Effective-June-15-2020>.
- Other courts have begun to hold non-essential, in-person proceedings. See, e.g., COVID-19 Operating Plan for the Harris County Judiciary District Courts, County Courts at Law & Probate Courts, at 1, <https://www.justex.net/JustexDocuments/0/News%20Items/News%202020/COVI19OperatingPlanforHarrisCountyJudiciaryApproved.pdf>; COVID-19 Operating Plan for the Dallas County Judiciary, at 1, <https://www.dallascounty.org/Assets/uploads/docs/covid-19/reopenings/AttachmentB-GeorgeAllenSr.CourtsBuilding-PlanandAssessment-Revised.pdf>.
- The Western District of Texas has postponed all civil and criminal bench and jury trials through September 30, but allows judges in respective decisions to conduct jury trials if they believe that doing so would not compromise the health and safety of Court personnel. See <https://www.txwd.uscourts.gov/coronavirus-covid-19-guidance/>.

Communications With the Regulator

How are filings made/meetings handled?

No single policy; varies.

Other Antitrust Issues

Competitor Collaborations

No update.

Price Gouging

§17.46(b) of the *Texas Deceptive Trade Practices-Consumer Protection Act* provides that it is a false, misleading or deceptive act or practice to take advantage of a disaster declared by the Governor under Chapter 418, *Government Code*. Texas Governor Greg Abbott declared a disaster on March 13, 2020. Price gouging is illegal, and the Office of the Attorney General has authority to prosecute any business that engages in price gouging after a disaster has been declared. Texas Attorney General Ken Paxton has issued a stern warning to retail suppliers, including those who supply grocery stores and pharmacies, that state law strictly prohibits price gouging in the wake of a declared disaster. The Texas AG is actively investigating price gouging complaints.

North America

Misleading Advertising

False, deceptive and misleading advertising is prohibited by the *Deceptive Trade Practices Act* (“*DTPA*”). The *DTPA* provides for both public and private enforcement.

Enforcement Priorities

Price gouging, consumer fraud, consumer protection.

Other Considerations

No update.



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