

# MERGER NOTIFICATION AND PROCEDURES TEMPLATE

## Portugal

January 2006

**IMPORTANT NOTE:** This template is intended to provide initial background on the jurisdiction's merger notification and review procedures. Reading the template is not a substitute for consulting the referenced statutes and regulations.

### 1. Merger notification and review materials (please provide title(s), popular name(s), and citation(s)/web address)

<b>A. Notification provisions</b>	Chapter I, Section III and Chapter III, Section III of the Law n.º 18/2003 approving the Legal Framework of Competition  <a href="http://www.autoridadedaconcorrenca.pt/index.aspx">http://www.autoridadedaconcorrenca.pt/index.aspx</a>  under Legislation
<b>B. Notification forms or information requirements</b>	Regulation n.º 2/E/2003 Relating to the Notification Form (under Article 31 (3) of the Law n.º 18/2003) <a href="http://www.autoridadedaconcorrenca.pt/index.aspx">http://www.autoridadedaconcorrenca.pt/index.aspx</a> , under notifications and fees (also, <a href="http://www.autoridadedaconcorrenca.pt/Aconcorrenca_prd.aspx?prd=A000000000002077&amp;Idmenu=">http://www.autoridadedaconcorrenca.pt/Aconcorrenca_prd.aspx?prd=A000000000002077&amp;Idmenu=</a> )
<b>C. Substantive merger review provisions</b>	Chapter I, Section III of the Law n.º 18/2003 approving the Legal Framework of Competition
<b>D. Implementing regulations</b>	Regulation n.º 1/E/2003 on Fees Payable for the assessment of concentrations and Regulation n.º 2/E/2003 Relating to the Notification Form
<b>E. Interpretive guidelines</b>	General instructions and clarifications regarding the notification are provided in the Notification form

and notices	
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## 2. Authority or authorities responsible for merger enforcement.

<b>A. Name of authority. If there is more than one authority, please describe allocation of responsibilities.</b>	<p>AUTORIDADE DA CONCORRENCIA</p> <p>In areas under sectoral regulation the Authority has to consult the regulator of the activity concerned by the concentration</p>
<b>B. Address, telephone and fax (including country code), e-mail, website address and languages available.</b>	<p>Rua Laura Alves, 4, 7.º 1050- 138 LISBOA PORTUGAL Tel: +351 21 790 20 00 FAX: +351 21 790 20 99</p> <p>e-mail: <a href="mailto:adc@autoridadedaconcorrenca.pt">adc@autoridadedaconcorrenca.pt</a></p> <p>web: <a href="http://www.autoridadedaconcorrenca.pt">http://www.autoridadedaconcorrenca.pt</a></p> <p>(Portuguese and English)</p>
<b>C. Is agency staff available for pre-notification consultation? If yes, please provide contact points for questions on merger filing requirements and/or consultations.</b>	<p>There is no standard pre notification procedure. In practice, the Authority may sometimes accept to meet and discuss with the parties.</p>

## 3. Covered transactions

<b>A. Definitions of potentially covered transactions (i.e., concentration or merger)</b>	<p>According to Law n.º 18/2003, article 8, paragraphs 1 and 2:</p> <p>1. a concentration between undertakings shall be understood to exist:</p> <p>a. In the case of a merger between two or more hitherto independent undertakings;</p> <p>b. In the case that one or more individuals who already have control of at least one undertaking or of one or more undertakings acquire control, directly or indirectly, of the whole or parts of one or several other undertakings.</p>
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	<p>2. The establishment or acquisition of a joint undertaking shall constitute a concentration between undertakings, within the meaning of subparagraph b) of the paragraph above, in as much as the joint undertaking fulfils the functions of an independent economic entity on a lasting basis.</p> <p>According to the paragraph 4 of the same article, the following are <b>not</b> held to constitute a concentration between undertakings:</p> <ul style="list-style-type: none"> <li>a. The acquisition of shareholdings or assets under the terms of a special process of corporate rescue or bankruptcy;</li> <li>b. The acquisition of a shareholding merely as a guarantee;</li> <li>c. The acquisition by credit institutions of shareholdings in nonfinancial undertakings, when such acquisition is not covered by the prohibition in Article 101 of the General Regulations for Credit Institutions and Financial Institutions approved by Decree-Law n.º 298/92 of 31 December.</li> </ul> <p>(English translation available on the site of the Authority)</p>
<p><b>B. If change of control is a determining factor, how is control defined?</b></p>	<p>According to paragraph 3 of the same article, control shall be constituted by any act, irrespective of the form which it takes, which, separately or jointly and having regard to the circumstances of fact or law involved, implies the ability to exercise a determining influence on an undertaking's activity, in particular:</p> <ul style="list-style-type: none"> <li>a. Acquisition of all or part of the share capital;</li> <li>b. Acquisition of rights of ownership, use or enjoyment of all or part of an undertaking's assets;</li> <li>c. Acquisition of rights or the signing of contracts which grant a decisive influence over the composition or decision-making of an undertaking's corporate bodies.</li> </ul>
<p><b>C. Are partial (less than 100%) stock acquisitions/minority shareholdings covered? At what levels?</b></p>	<p>Yes: when they confer to the acquiring company the ability to exercise a determining influence on an undertaking's activity</p>
<p><b>D. Do the notification requirements cover joint ventures? If so, what types (e.g., production joint ventures)?</b></p>	<p>Yes: when the establishment or acquisition of a joint undertaking constitute a concentration between undertakings, inasmuch as the joint undertaking fulfils the functions of an independent economic entity on a lasting basis.</p>

## 4. Thresholds for notification

<p><b>A. What are the general thresholds for notification?</b></p>	<p>According to the Article 9 (1) of Law n.º 18/2003, prior notification is required for all concentrations where at least one of the following circumstances occurs:</p> <ul style="list-style-type: none"><li>a) Their implementation creates or reinforces a share exceeding 30% of the national market for a particular good or service or for a substantial part of it.</li><li>b) In the preceding financial year, the group of undertakings taking part in the concentration have recorded in Portugal a turnover exceeding EUR 150 million, net of directly related taxes, provided that the individual turnover in Portugal of at least two of these undertakings exceeds 2 million euros</li></ul>
<p><b>B. To which entities do the merger notification thresholds apply, i.e., which entities are included in determining relevant undertakings/firms for threshold purposes? If based on control, how is control determined?</b></p>	<p>According to the article 10 (1) of Law n.º 18/2003, calculation of the market share and turnover shall take into account, accumulatively, the turnover of:</p> <ul style="list-style-type: none"><li>a) Undertakings taking part in the concentration;</li><li>b) Undertakings in which such undertakings dispose, directly or indirectly, of:<ul style="list-style-type: none"><li>- A majority holding in the share capital;</li><li>- More than half the votes;</li><li>-The ability to nominate more than half the members of the management or supervisory bodies;</li><li>- The power to manage the undertaking's business;</li></ul></li><li>c) Undertakings which, in the participating undertakings, separately or jointly, have the rights or powers specified in subparagraph b);</li><li>d) Undertakings in which an undertaking referred to in subparagraph c) has the rights or powers specified in subparagraph b);</li><li>e) Undertakings in which various undertakings referred to in subparagraphs a) to d) jointly dispose, among themselves or with third-party undertakings, of the rights or powers specified in subparagraph b).</li></ul> <p>By way of derogation from this rule: if the concentration consists of the acquisition of parts, with or without their own legal personality, of one or more undertakings, the turnover to be taken into account with regard to the seller shall solely be the one related to the parts involved in the transaction (article 10(4)).</p>

<p><b>C. Are the thresholds subject to adjustment (e.g. annually for inflation)? If adjusted, state on what basis and how frequently.</b></p>	<p>No.</p>
<p><b>D. To what period(s) of time do the thresholds relate (e.g., most recent calendar year, fiscal year; for assets-based tests, calendar year-end, fiscal year-end, other)?</b></p>	<p>Thresholds relate to the parties' turnover or share in the previous fiscal year.</p>
<p><b>E. Describe the methodology for identifying and calculating any values necessary to determine if notification is required, including the value of the transaction, the relevant sales or turnover, and/or the relevant assets?</b></p>	<p>According to Art. 10 (3) of Law n.º 18/2003, turnover includes the value of products sold and services provided to undertakings and consumers within the territory of Portugal, net of taxes directly related to the turnover, but does not include transactions carried out between carried out between the undertakings within the group.</p>
<p><b>F. Describe methodology for calculating exchange rates.</b></p>	<p>No specific rule. Foreign currencies are converted into euros according to the official exchange rate applicable at the time of the relevant fact.</p>
<p><b>G. Do thresholds apply to worldwide sales/assets, to sales/assets within the jurisdiction, or both?</b></p>	<p>Thresholds are only based on the turnover generated within Portugal.</p>
<p><b>H. Can a single party trigger the notification threshold (e.g., one party's sales, assets, or market share)?</b></p>	<p>Yes, if the merger creates or reinforces a share exceeding 30% of the national market. If an undertaking buys assets that represent more than 30% of the market, even if there is no overlap, a filing has to be made.</p>
<p><b>I. How is the nexus to the jurisdiction determined (e.g., sales or assets in the jurisdiction)? If based on an "effects doctrine," please describe how this is applied. Is there a requirement of local</b></p>	<p>The rules are applicable to concentrations between undertakings which take place, or have or may have effects in Portugal. The effects doctrine is applied: the mere existence of import sales is sufficient to trigger the obligation to file.</p>

<p><b>presence (local assets/affiliates/subsidiaries) or are import sales into the jurisdiction sufficient to meet an “effects” test?</b></p>	
<p><b>J. If national sales are relevant, how are they allocated geographically (e.g., location of customer, location of seller)?</b></p>	<p>The sales are allocated geographically by reference to the location of the customers.</p>
<p><b>K. If market share tests are used, are there guidelines for calculating market shares?</b></p>	<p>There are no guidelines available</p>
<p><b>L. Are there special threshold calculations for particular sectors (e.g., banking, airlines, media) or particular types of transactions (e.g. joint ventures, partnerships, financial investments)?</b></p>	<p>In the case of joint ventures, Article 10(2) of Law 18/2003 states the calculation of the turnover for the undertakings taking part in the concentration:</p> <ul style="list-style-type: none"> <li>a. Shall not take into account the turnover resulting from the sale of products or the provision of services between the joint undertaking and each of the undertakings taking part in the concentration or any other undertaking of the participating groups;</li> <li>b. Shall take into account the turnover from the sale of products or provision of services between the joint undertaking and any other third-party undertaking and such turnover shall be attributed to each of the undertakings participating in the concentration in the part corresponding to its division into equal parts for all the undertakings controlling the joint undertaking.</li> </ul> <p>In the case of credit and other financial institutions, Article 10(5), a) of Law 18/2003 states that the turnover shall be substituted by the sum of the following items of income, as they are defined by the applicable legislation:</p> <ul style="list-style-type: none"> <li>i. Interest and equivalent income;</li> <li>ii. Income from securities: income from shares and other variable-yield securities; income from equity investment; income from parts of the capital in associated undertakings;</li> <li>iii. Commissions received;</li> <li>iv. Net profit from financial operations;</li> <li>v. Other operating income.</li> </ul>

	In the case of insurance undertakings, Article 10(5) b) of Law 18/2003 states that the turnover shall be replaced by the value of gross premiums written, paid by residents of Portugal, which shall include all amounts received or receivable in respect of insurance contracts issued by or on behalf of such undertakings, including premiums paid to reinsurers, except for the taxes or levies charged on the basis of the amount of the premiums or their total volume.
<b>M. Are any sectors excluded from notification requirements? If so, which sectors?</b>	No.
<b>N. Are there special rules regarding jurisdictional thresholds for transactions in which both the acquiring and acquired parties are foreign?</b>	No.
<b>O. Does the agency have the authority to review transactions that fall below the thresholds?</b>	No

## 5. Notification requirements and timing of notification

<b>A. Is notification mandatory pre-merger?</b>	Yes, whenever the turnover or the market share thresholds are met (Law 18/2003, article 9 (1))
<b>B. Is notification mandatory post-merger?</b>	Not applicable
<b>C. Can parties make a voluntary merger filing even if filing is not mandatory? If so, when?</b>	No
<b>D. What is the earliest that a transaction can be notified (e.g., is a definitive agreement required; if so, when is an</b>	There are no specific guidelines. The Authority requires a legal obligation to accept a filing

<b>agreement considered definitive?)?</b>	
<b>E. Must notification be made within a specified period following a triggering event? If so, describe the triggering event (e.g., definitive agreement) and the deadline following the event. Do the deadline and triggering event depend on the structure of the transaction? Are there special rules for public takeover bids?</b>	Yes. According to Art. 9 (2) of Law 18/2003, concentrations shall be notified to the Authority within seven working days of conclusion of the agreement or, where relevant, by the publication date of the announcement of a takeover bid, an exchange offer or a bid to acquire a controlling interest.
<b>F. Can parties request an extension for the notification deadline? If yes, please describe the procedure and whether there is a maximum length of time for the extension.</b>	Yes. A written application is needed and it is difficult to obtain more than 5 business days of extension

## 6. Simplified procedures

<b>Describe any special procedures for notifying transactions that do not raise competition concerns (e.g., short form, simplified procedures, advanced ruling certificates, discretion to waive certain responses, etc.).</b>	<p>According to Article 32 (3) of Law n.º 18/2003, the Competition Authority may waive the requirement for certain information or documents to be presented if it considers them unnecessary for the appraisal of the concentration.</p> <p>Accordingly, Regulation n.º 2, relating to the Notification Form, provides that, the notifying parties may assess whether or not it is necessary to complete all the points on the form, on the basis of the appraisal criteria for concentrations contained in Article 12 of the Law referred to above, and indicates the minimum sections and points (short form) the notifying parties shall complete.</p>
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## 7. Documents to be submitted

<b>A. Describe the types of documents that parties must submit with the</b>	<p>The parties must submit:</p> <ul style="list-style-type: none"> <li>- If the notification is filled by the parties' legal representatives,</li> </ul>
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<p><b>notification (e.g., agreement, annual reports, market studies, transaction documents).</b></p>	<p>the respective power of attorney</p> <ul style="list-style-type: none"> <li>- The approved financial statements and reports of each undertaking involved in the concentration, for the last three financial years.</li> <li>- A copy of the agreements involved in the setting-up of the concentration.</li> <li>- Shareholders' agreements, if they exist, when they are important for assessing the form and means of control.</li> <li>- They may further submit any studies they consider relevant.</li> <li>- As the notification is effective on the date of the fee payment, they must also present documentary evidence of the payment of the fee due, according to Regulation n.º 1, on the Fees payable for the assessment of concentrations</li> </ul>
<p><b>B. Are there any document legalization requirements (e.g., notarization or apostille)?</b></p>	<p>It is not established.</p>
<p><b>C. Are there special rules for exemptions from information requirements (e.g. information submitted or document legalization) for transactions in which the acquiring and acquired parties are foreign?</b></p>	<p>No.</p>

## 8. Translation

<p><b>A. In what language(s) can the notification forms be submitted?</b></p>	<p>The notification form must be submitted in Portuguese.</p>
<p><b>B. Describe any requirements to submit translations of documents with the initial notification, or later in response to requests for information, including the categories or types of documents for which</b></p>	<p>Other documents may be submitted in other languages but if they are particularly complex, the Authority may ask for a translation. Such a request suspends proceeding time limits</p>

<p>translation is required, requirements for certification of the translation, language(s) accepted, and whether summaries or excerpts are allowed in lieu of complete translations.</p>	
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## 9. Review periods

<p><b>A. Describe any applicable review periods following notification.</b></p>	<p>The Authority shall complete the evidence-taking for the Proceeding within 30 working days of the date on which the notification is effective. Within this time limit the Authority shall decide.</p> <p>When it considers that a concentration may create or strengthen a dominant position which may result in significant barriers to effective competition in the Portuguese market or in a substantial part of it, the Authority may initiate an in-depth investigation (article 35). The time limit for this decision is of further 90 working Days.</p>
<p><b>B. Are there different rules for public tenders (e.g. open market stock purchases or hostile bids)?</b></p>	<p>No.</p>
<p><b>C. What are the procedures for an extension of the review periods, if any (e.g., suspended by requests for additional information, suspended at the authority's discretion or with the parties' consent)? Is there a statutory maximum for extensions?</b></p>	<p>If additional information or documents are necessary, the Authority shall request it to the authors of the notification. Such a request suspends proceeding time limits of 30 and 90 days (articles 34 and 36 (2)).</p>
<p><b>D. What are the procedures for accelerated review of non-problematic transactions, if any?</b></p>	<p>Not applicable.</p>

## 10. Waiting periods / suspension obligations

<p><b>A. Describe any waiting periods/suspension obligations following notification, including whether closing is suspended or whether the implementation of the transaction is suspended or whether the parties are prevented from adopting specific measures (e.g., measures that make the transaction irreversible, or measures that change the market structure), during any initial review period and/or further review period.</b></p>	<p>Article 11 of Law 18/2003 states that a concentration subject to prior notification shall not be put into effect before it has been both notified and a decision of non-opposition has been adopted.</p> <p>This does not prevent the implementation of a public bid to purchase or an exchange offer that has been notified to the Authority, provided that the acquirer does not exercise the voting rights attached to the securities in question or exercises them solely to protect the full value of its investments on the basis of a derogation granted.</p>
<p><b>B. Can parties request a derogation from waiting periods/suspension obligations? If so, under what circumstances?</b></p>	<p>At the request, duly substantiated, of the participating undertaking or undertakings, the Authority may grant a derogation from the obligations described in the previous question, after considering the consequences for the participating undertakings of suspending the concentration or the exercise of voting rights and the negative effects of the derogation for the competition. The derogation may, if necessary, be accompanied by conditions and obligations intended to guarantee effective competition.</p>
<p><b>C. Are the applicable waiting periods/suspension obligations limited to aspects of the transaction that occur within the jurisdiction (e.g., acquisition or merger of local undertakings/business units)? If not, to what extent do they apply to the parties' ability to proceed with the transaction outside the jurisdiction? Describe any procedures available to permit consummation outside the jurisdiction prior to the expiration of the local waiting period and/or clearance (e.g. request for a derogation</b></p>	<p>The waiting periods apply to the entire transaction.</p>

<p>from the suspension obligations, commitment to hold separate the local business operations, escrow agents.)</p>	
<p><b>D. Are parties allowed to close the transaction if no decision is issued within the statutory period?</b></p>	<p>Yes.</p>
<p><b>E. Describe any provisions or procedures available to the enforcement authority, the parties and/or third parties to extend the waiting period/suspension obligation.</b></p>	<p>The enforcement authority may ask for additional information or documents which suspends the proceeding's time limits.</p> <p>Whenever the notification documents or information are incomplete or inaccurate the Authority shall invite the authors of the notification, in writing and within seven working days, to complete or rectify the notification within the period it stipulates. In this case, the 30 working days period shall only begin on the date on which the Authority receives the information or documents.</p>
<p><b>F. Describe any procedures for obtaining early termination of the applicable waiting period/suspension obligation, and the criteria and timetable for deciding whether to grant early termination.</b></p>	<p>Not applicable.</p>
<p><b>G. Describe any provisions or procedures allowing the parties to close at their own risk before waiting periods expire or clearance is granted (e.g., allowing the transaction to close if no "irreversible measures" are taken).</b></p>	<p>At the request, duly substantiated, of the participating undertaking or undertakings, the Authority may grant a derogation from the prohibition to put a merger into effect, after considering the consequences for the participating undertakings of suspending the concentration. The derogation may, if necessary, be accompanied by conditions and obligations intended to guarantee effective competition</p>

## 11. Responsibility for notification / representation

<p><b>A. Who is responsible for notifying – the acquiring person(s), acquired</b></p>	<p>In the case of a merger, all the companies directly involved in the merger; In the case of acquisition of full control, the person or undertaking assuming control; in the case of joint control, the</p>
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<p><b>person(s), or both? Does each party have to make its own filing?</b></p>	<p>persons or undertakings assuming control.</p> <p>Joint notifications must be presented by a common representative empowered to send and receive documents on behalf of all the notifying parties (Regulation n.º 2, relating to the Notification form).</p>
<p><b>B. Do different rules apply to public tenders (e.g. open market stock purchases or hostile bids)?</b></p>	<p>No.</p>
<p><b>C. Are there any rules as to who can represent the notifying parties (e.g., must a lawyer representing the parties be a member of a local bar)?</b></p>	<p>Yes.</p>
<p><b>D. How does the validity of the representation need to be attested (e.g., power of attorney)? Are there special rules for foreign representatives or firms? Must a power of attorney be notarized, legalized or apostilled?</b></p>	<p>The notification shall include a declaration of conformity signed by the notifying party or its representative or, for joint notifications, by the respective joint representative.</p> <p>The representatives of undertakings holding a special power of attorney for notification purposes are required to produce written evidence of their powers.</p>

## 12. Filing fees

<p><b>A. Are any filing fees assessed for notification? If so, in what amount and how is the amount determined (e.g., flat fee, fees for services, tiered fees based on complexity, tiered fees based on size of transaction)?</b></p>	<p>Yes. The amount of the fee, which depends on the parties aggregate turnover, goes from a minimum of € 7,500 to a maximum of €25,000.</p> <p>In case of an in-depth investigation, in addition to the initial fee, a further fee of 50% of its amount shall be payable. (Regulation n.º 1, on the Fees payable for the Assessment of Concentrations)</p>
<p><b>B. Who is responsible for payment?</b></p>	<p>The notifying company or companies.</p>

<p><b>C. When is payment required?</b></p>	<p>Payment is required as soon as the notification is presented to the Competition Authority.</p> <p>Notification shall be effective only on the date of payment of the fee due (article 32 (1)).</p>
<p><b>D. What are the procedures for making payments (e.g., accepted forms of payment, proof of payment required, wire transfer instructions)?</b></p>	<p>Fees shall be payed by means of a bank transfer to an account duly identified in the Competition Authority web site, and the respective documentary evidence shall be forwarded to the Authority on the day of payment.</p>

### 13. Confidentiality

<p><b>A. To what extent, if any, does your agency make public the fact that a pre-merger notification filing was made or the contents of the notification?</b></p>	<p>Whenever a notification is made, within five days of the date on which it is effective, the Authority shall publish a summary of the notification in two national newspapers, so that any interested third parties may present their observations within the prescribed time, which may not be less than 10 days. The notification is also published in the Authority's web site.</p> <p>In both cases, details of the notification will not be published.</p>
<p><b>B. Do notifying parties have access to the authority's file? If so, under what circumstances can the right of access be exercised?</b></p>	<p>The notifying parties have the right to access the file. Third parties' business secrets are not included in the right of access.</p>
<p><b>C. Can third parties or other government agencies obtain access to notification materials? If so, under what circumstances?</b></p>	<p>Third parties, if they have been admitted to the proceedings in accordance with article 38(3) (i.e., as interveners or as "interested parties", e.g., competitors, clients, or suppliers who wish to supply observations in accordance with 13 A. of present questionnaire), can also have access to the file, except to any business secrets of other involved undertakings.</p>
<p><b>D. Are procedures available to request confidential treatment of the fact of notification and/or notification materials? If so, please describe.</b></p>	<p>The fact that the notification has been made cannot be treated with confidentiality.</p> <p>Parties and third parties wishing to safeguard confidentiality of the information supplied, have to mark such information as "confidential" and state the relevant reasons.</p> <p>The Competition Authority shall decide on the grounds for</p>

	maintaining the confidentiality of this information.
<b>E. Is the agency or government a party to any agreements that permit the exchange of information with foreign competition authorities? If so, with which foreign authorities? Are the agreements publicly available?</b>	Yes. Portugal is a member of the ECA - European Competition Authorities, which was created on the 21 April 2001, in Amsterdam. ECA gathers all EEE countries which have agreed, in what concerns concentrations, to establish a close cooperation, in a way to jointly appraise concentrations which are subject to notification in more than one Member State.
<b>F. Can the agency exchange documents or information with other reviewing agencies? If so, does it need the consent from the parties who have submitted confidential information to exchange such information?</b>	Yes. It does not need consent from the parties.

## 14. Transparency

<b>A. Does the agency publish an annual report? Please provide the web address if available.</b>	Yes. It is available at: <a href="http://www.autoridadedaconcorrenca.pt/Aconcorrenca_C19.aspx?cat=Cat_Publicacoes_AConcorrenca_">http://www.autoridadedaconcorrenca.pt/Aconcorrenca_C19.aspx?cat=Cat_Publicacoes_AConcorrenca_</a>
<b>B. Does the agency publish press releases related to merger policy or investigations?</b>	Yes.
<b>C. Does the agency publish decisions on why it cleared / blocked a transaction?</b>	Yes.

## 15. Sanctions/penalties

<p><b>A. What are the sanctions/penalties for failure to file a notification and/or failure to observe any mandatory waiting periods/suspension obligations?</b></p>	<p>According to article 43(1) of the Law n.º 18/2003, fines up to 10% of the previous year's turnover for each of the undertakings participating in the infringement, may be imposed (i) in case of implementation of concentrations of undertakings which have not been cleared yet or were prohibited by the Authority (ii) in case of disregard of the conditions or obligations imposed on the undertakings by the Authority.</p> <p>A fine of up to 1% of the previous year's turnover for each of the undertakings may be imposed in case of failure to notify a concentration subject to prior notification (article 43(3))</p>
<p><b>B. Which party/ies are potentially liable?</b></p>	<p>In principle the party upon which falls the obligation to notify is liable.</p> <p>According to article 47 of Law n.º 18/2003, the following persons may be held responsible:</p> <p>Individuals, legal persons, companies and associations without legal personality:</p> <p>(i) Legal persons and their equivalents for the offences provided for in Law 18/2003 when the facts have been carried out on their behalf or on their account or in the exercise of duty by members of their corporate bodies, their representatives or their employees;</p> <p>(ii) the directors of legal persons and equivalent bodies shall be subject to the penalty prescribed for the author, if, when they know or should know of the infringement yet fail to take the appropriate measures to terminate it immediately;</p> <p>(iii) Undertakings which are part of an association of undertakings that is subject to a fine are jointly responsible for payment of the fine.</p>
<p><b>C. Can the agency impose/order these sanctions/penalties directly, or is it required to bring judicial action against the infringing party? If the latter, please describe the procedure and indicate how long this procedure can take.</b></p>	<p>It can impose them directly.</p>

## 16. Judicial review

<p><b>Describe the provisions</b></p>	<p>Decisions of the Authority can be appealed before the Tribunal de</p>
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<p><b>and timetable for judicial review or other rights of appeal/review of agency decisions on merger notification and review.</b></p>	<p>Comércio de Lisboa (Lisbon Commercial Court) The appeal must be filed within a period of three months.</p> <p>Also, a concentration prohibited by the Autoridade da Concorrência may, upon application until 30 days after the Autoridade's decision, be cleared by the Minister of Economics if, in a specific case, the restraint of competition concerned is outweighed by advantages to the Economy's paramount interests (Law 10/2003, Article 34<sup>o</sup>). An appeal against these decisions can be lodged with the Tribunal de Comércio de Lisboa.</p>
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## 17. Additional filings

<p><b>Are any additional filings/clearances required for some types of transactions, e.g., sectoral regulators, securities regulator?</b></p>	<p>No, but whenever a concentration of undertakings affects a market that is subject to sector regulation, before reaching a decision, the Competition Authority shall ask the respective regulatory authority to state its opinion.</p> <p>These provisions shall not affect the exercise by the sector regulatory authorities of the powers that, within the scope of their specific duties, are legally conferred on them in relation to the concentration in question (article 39, Law n.º 18/2003)</p>
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## 18. Closing deadlines

<p><b>When a transaction is cleared or approved, is there a time period within which the parties must close for it to remain authorized?</b></p>	<p>No.</p>
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## 19. Post merger review of transactions

<p><b>Can the agency reopen an investigation of a transaction that it previously cleared or allowed to proceed with conditions? If so, are there any limitations, including a</b></p>	<p>Yes. The Competition Authority may initiate proceedings if one of the following situations arises:</p> <ul style="list-style-type: none"> <li>(i) concentrations of which the Authority becomes aware and which have not been subject to previous notification;</li> <li>(ii) concentrations for which the decision of non-opposition was</li> </ul>
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<b>time limit on this authority?</b>	grounded on information provided by the participants in the concentration, which was false or inaccurate;  (iii) concentrations in which there has been total or partial disregard for the obligations or conditions imposed,
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