

Guiding Principles For Merger Notification and Review

1. **Sovereignty.** Jurisdictions are sovereign with respect to the application of their own laws to mergers.
2. **Transparency.** In order to foster consistency, predictability, and fairness, the merger review process should be transparent with respect to the policies, practices, and procedures involved in the review, the identity of the decision-maker(s), the substantive standard of review, and the bases of any adverse enforcement decisions on the merits.
3. **Non-discrimination on the basis of nationality.** In the merger review process, jurisdictions should not discriminate in the application of competition laws and regulations on the basis of nationality.
4. **Procedural fairness.** Prior to a final adverse decision on the merits, merging parties should be informed of the competitive concerns that form the basis for the proposed adverse decision and the factual basis upon which such concerns are based, and should have an opportunity to express their views in relation to those concerns. Reviewing jurisdictions should provide an opportunity for review of such decisions before a separate adjudicative body. Third parties that believe they would be harmed by potential anticompetitive effects of a proposed transaction should be allowed to express their views in the course of the merger review process.
5. **Efficient, timely, and effective review.** The merger review process should provide enforcement agencies with information needed to review the competitive effects of transactions and should not impose unnecessary costs on transactions. The review of transactions should be conducted, and any resulting enforcement decision should be made, within a reasonable and determinable time frame.
6. **Coordination.** Jurisdictions reviewing the same transaction should engage in such coordination as would, without compromising enforcement of domestic laws, enhance the efficiency and effectiveness of the review process and reduce transaction costs.
7. **Convergence.** Jurisdictions should seek convergence of merger review processes toward agreed best practices.
8. **Protection of confidential information.** The merger review process should provide for the protection of confidential information.