

MERGER NOTIFICATION AND PROCEDURES TEMPLATE

JORDAN

Jan 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)

A. Notification provisions	Article 10 of the Competition Law No. 33 of the year 2004 (Hereinafter the Competition Law) states that: "Enterprises wishing to carry out economic concentration operations shall submit a petition in this regard to the Competition Directorate." Available at: http://www.competition.gov.jo/Files/En/Competition_Law.PDF
B. Notification forms or information requirements	Form requested for Economic Concentration operation is available only in Arabic at the following address: http://www.competition.gov.jo/Files/Ar/Concentration_form.doc
C. Substantive merger review provisions	Articles 9, 10 and 11 of the Competition Law regulate mergers and economic concentration operation. http://www.competition.gov.jo/Files/En/Competition_Law.PDF
D. Implementing regulations	Instruction No (2) for the year 2006 issued in accordance with Article 10 (c/2) of the Competition Law, and published in the Official Gazette No 4744 of 16 February 2006 on the notice evidencing the completion of the application.
E. Interpretive guidelines and notices	Guidelines are published at: http://www.competition.gov.jo/Files/En/English_Brochure.pdf

2. Authority or authorities responsible for merger enforcement.

A. Name of authority. If there is more than one authority, please describe allocation of responsibilities.	<ol style="list-style-type: none">1. The Competition Directorate: it controls mergers affecting competition in the market.2. The Companies Control Department: It controls the financial and registration part of the merger.
B. Address, telephone and fax (including country code), e-mail, website address and languages available.	The Competition Directorate Ministry of Industry and Trade The Hashemite Kingdom of Jordan P.O.Box 2019, Amman- 11181-Jordan Tel: +962-6-562-9030 Fax: +962-6-562-9030 Ext. 429 E-mail: luna.a@mit.gov.jo Website: www.competition.gov.jo Language: Arabic and English
C. Is agency staff available for pre-notification consultation? If yes, please provide contact points for questions on merger filing requirements and/or consultations.	<p>Mrs. Abbadi, luna Director of the Competition Directorate Ministry of Industry & Trade Tel: +962-6-562-9030 Ext. 427 Fax: +962-6-562-9030 Ext. 429 E-mail: luna.a@mit.gov.jo</p> <p>Mr. Saleh, Mohammad Head of Concentration and Exemptions Division The Competition Directorate Ministry of Industry and Trade Tel: +962-6-562-9030 Ext. 211 Fax: +962-6-562-9030 Ext. 429 E-mail: mohammad.s@mit.gov.jo</p> <p>Mr. Khair Ad-Deen, Al-Muatasem Economic analyst, The Competition Directorate Ministry of Industry & Trade Tel: +962-6-562-9030 Ext. 227 Fax: +962-6-562-9030 Ext. 429 E-mail: al-muatasem.kh@mit.gov.jo</p>

3. Covered transactions

A. Definitions of potentially covered transactions (i.e., concentration or merger)	Article 9 (A) of the Competition Law states that: "For purposes of this Law, any activity resulting in the full or partial transfer of ownership of or interest in property or rights or shares or obligations of an Enterprise to another, and which may enable an Enterprise or a group of
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	<p>Enterprises to control, directly or indirectly, another Enterprise or group of Enterprises is considered an economic concentration operation."</p> <p>Article 9 (A) of the Competition Law states that: "The accomplishment of economic concentration operations impacting the level of competition in the market by causing or enforcing a Dominant Position shall depend upon receiving the approval of the Minister in writing, if the total share of the Enterprise or Enterprises concerned in the economic concentration operation exceeds 40% of the total transactions in the market."</p> <p><http://www.competition.gov.io/eng/pillars.html></p>
B. If change of control is a determining factor, how is control defined?	By looking at Article 9 (A) above, control is a determining factor, however control is not defined in the Competition Law.
C. Are partial (less than 100%) stock acquisitions/minority shareholdings covered? At what levels?	Yes. No level for shares is determined. See Article 9(A) of the Competition Law.
D. Do the notification requirements cover joint ventures? If so, what types (e.g., production joint ventures)?	Yes.

4. Thresholds for notification

A. What are the general thresholds for notification?	See Article 9(A, B) of the Competition Law above.
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	Thresholds are applied for all entities interested in the merger.

control determined?	
C. Are the thresholds subject to adjustment: (e.g. annually for inflation)? If adjusted, state on what basis and how frequently.	No.
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)?	The last two fiscal years.
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?	<p>Calculating the market share are as follows: .</p> <ol style="list-style-type: none"> 1. Define the relevant markets. 2. Calculate the market share. If the market share exceeds 40% notification will be mandatory. <p>Control is not defined in the competition law.</p>
F. Describe methodology for calculating exchange rates.	No specific methodology at present.
G. Do thresholds apply to worldwide sales/assets, to sales/assets within the jurisdiction, or both?	Article 3 of the Competition Law stipulates that: "The provisions of the Competition Law shall apply to all production, commerce and service provision activities in the Kingdom, as well as to any economic activities occurring outside the Kingdom and having an effect inside the Kingdom."
H. Can a single party trigger the notification threshold (e.g., one party's sales, assets, or market share)?	No.
I. How is the nexus to the jurisdiction determined (e.g., sales or assets in the jurisdiction)? If based on an "effects	<p>Article (3) states that the provisions of the Competition Law shall apply to:</p> <ol style="list-style-type: none"> 1. all production, commerce and service provision activities in the Kingdom.

<p>doctrine,” please describe how this is applied. Is there a requirement of local presence (local assets/affiliates/subsidiaries) or are import sales into the jurisdiction sufficient to meet an “effects” test?</p>	<p>2. any economic activities occurring outside the Kingdom and having an effect inside the Kingdom. Local presence is not required.</p>
<p>J. If national sales are relevant, how are they allocated geographically (e.g., location of customer, location of seller)?</p>	<p>Allocation of national sales depends on the nature of the proposed merger or acquisition.</p>
<p>K. If market share tests are used, are there guidelines for calculating market shares?</p>	<p>No guidelines are available at the time being.</p>
<p>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)?</p>	<p>No. There are no threshold calculations for particular sectors. For instance, banking sector has its own laws which govern them. Article 9 (C) States that: Notwithstanding anything contained in any other legislation, authorities responsible for licensing economic concentration operations in any sector shall, prior to issuing their final decision, seek the opinion of the Minister in writing regarding the extent of the effect of such operations on the level of competition.</p>
<p>M. Are any sectors excluded from notification requirements? If so, which sectors?</p>	<p>No. See Article 9(C) of the Competition Law, mentioned above.</p>
<p>N. Are there special rules regarding jurisdictional thresholds for transactions in which both the acquiring and acquired parties are foreign?</p>	<p>No.</p>
<p>O. Does the agency have the authority to review transactions that fall below the thresholds?</p>	<p>No.</p>

5. Notification requirements and timing of notification

<p>A. Is notification mandatory pre-merger?</p>	<p>Yes.</p>
<p>B. Is notification mandatory post-merger?</p>	<p>Yes.</p>
<p>C. Can parties make a voluntary merger filing even if filing is not mandatory? If so, when?</p>	<p>Yes. When the Parties are not able to calculate their market shares.</p>
<p>D. What is the earliest that a transaction can be notified (e.g., is a definitive agreement required; if so, when is an agreement considered definitive)?</p>	<p>Article 10 (A) of the Competition Law stated that: Parties shall submit a petition to the Competetion Directorate, on the form adopted by the Ministry of Industry and Trade, within thirty days after having reached a draft agreement or an agreement on the economic concentration activity.</p>
<p>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?</p>	<p>See 5(D) above.</p> <p>For bids rules, Article 5(A (5)) of the Competition Law stipulated: " Practices, alliances and agreements, explicit or implicit, that prejudice, contravene, limit or prevent competition, shall be prohibited, especially those whose subject or aim is to:</p> <p>5) Collusion in tenders or bids, whether in overbidding or underbidding, but it shall not be considered collusive to submit joint offers in which the parties announce such joint offer <i>ab initio</i>, and without the goal of such joint bidding being to prevent competition in any way.</p>
<p>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.</p>	<p>No.</p>

6. Simplified procedures

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.).

There are no special procedures.

7. Documents to be submitted

A. Describe the types of documents that parties must submit with the notification (e.g., agreement, annual reports, market studies, transaction documents).

- A copy of the articles and memoranda of the Enterprises concerned.
- A copy of the draft contract or agreement on the concentration.
- A list of the most important products and services in which the concerned Enterprises are involved and their shares thereof.
- A report on the consequences of the operation, especially its positive effects on the market.
- Financial statements for the two most recent fiscal years of the Enterprises concerned with economic concentration operation and their branches.
- A list of the shareholders or partners of the concerned Enterprises and the share of each therein.
- A list of their officers, members of their management boards, or members of their boards of directors.
- A list of the branches of each Enterprise.

B. Are there any document legalization requirements (e.g., notarization or apostille)?

All documents must be endorsed.

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?

No.

8. Translation

A. In what language(s) can the notification forms be submitted?	All requested documents and information must be submitted in Arabic.
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 translation is required, requirements for certification of the translation, language(s) accepted, and whether summaries or excerpts are allowed in lieu of complete translations.	In case of foreign companies, all submitted documents must be translated to Arabic by certified translator.

9. Review periods

A. Describe any applicable review periods following notification.	According to Article 11 (C) of the Competition Law, the Minister shall issue his reasoned decision regarding the economic concentration operation within a period not exceeding one hundred days starting on the date of issuing the notice evidencing the completion of the application.
B. Are there different rules for public tenders (e.g. open market stock purchases or hostile bids)?	No.
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	There are no specified procedures to extent the review period.

maximum for extensions?	
D. What are the procedures for accelerated review of non-problematic transactions, if any?	There are no specified procedures to accelerate the review.

10. Waiting periods / suspension obligations

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.	Article 11 (C) of the Competition Law also noted that: "Enterprises involved in the economic concentration operation shall not commit any actions or practices that may lead to rendering the economic concentration operation irreversible, or may alter the market structure; otherwise these actions and practices shall be annulled through a court decision."
B. Can parties request a derogation from waiting periods/suspension obligations? If so, under what circumstances?	No.
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	<p>Please look Article 3 of the Competition Law, mentioned above in 4 (G) of the Template.</p> <p>The Competition Directorate has no applicable procedure to permit consummation the transactions occur outside the jurisdiction.</p>

<p>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 from the suspension obligations, commitment to hold separate the local business operations, escrow agents.)</p>	
<p>D. Are parties allowed to close the transaction if no decision is issued within the statutory period?</p>	<p>No.</p>
<p>E. Describe any provisions or procedures available to the enforcement authority, the parties and/or third parties to extend the waiting period/suspension obligation.</p>	<p>No special provisions or procedures available to govern this issue.</p>
<p>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.</p>	<p>No specific procedure.</p>
<p>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).</p>	<p>No provisions or procedures.</p>

11. Responsibility for notification / representation

<p>A. Who is responsible for notifying – the acquiring person(s), acquired person(s), or both? Does each party have to make its own filing?</p>	<p>Although both Parties are responsible for notifying, one or both Parties have to make the filing. See Article 10 (a) of the Competition Law which noted that Enterprises in general who wishing to carry out economic concentration shall submit a petition in this regard to the Directorate</p>
<p>B. Do different rules apply to public tenders (e.g. open market stock purchases or hostile bids)?</p>	<p>No.</p>
<p>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)?</p>	<p>No.</p>
<p>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?</p>	<p>In all cases, enterprises representatives must have Legal authorization.</p>

12. Filing fees

<p>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)?</p>	<p>N/A</p>
<p>B. Who is responsible for payment?</p>	<p>N/A</p>

C. When is payment required?	N/A
D. What are the procedures for making payments (e.g., accepted forms of payment, proof of payment required, wire transfer instructions)?	N/A

13. Confidentiality

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?	Article 10 (D) of the Competition Law stated that: "The Competition Directorate shall publish, in two daily newspapers at the expense of the applicant, an announcement regarding the petition for economic concentration submitted. The announcement shall include a summary of the subject of the petition and an invitation to any interested party to present its opinion in regard of the petition within fifteen days after the date of the announcement."
B. Do notifying parties have access to the authority's file? If so, under what circumstances can the right of access be exercised?	No.
C. Can third parties or other government agencies obtain access to notification materials? If so, under what circumstances?	Yes. Article 13 (B) Stated that: "Officers of the Directorate and any person looking into its activities shall be required to maintain professional secrecy." Article 12 (7, 8) mentioned the parties that can have access as follows: <ul style="list-style-type: none"> • Experts or consultants from outside the Ministry to accomplish any activities within its authority. • Similar bodies outside the Kingdom for the purpose of exchanging general information and data and matters that relate to the execution of competition rules to the extent allowed by international treaties and on the basis of reciprocity.
D. Are procedures available to request confidential	No.

<p>treatment of the fact of notification and/or notification materials? If so, please describe.</p>	
<p>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?</p>	<p>There are no agreements concerning exchange of confidential information. Please look Article 13 (c).</p>
<p>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?</p>	<p>See Article 13 (B) of the Competition Law, mentioned above.</p>

14. Transparency

<p>A. Does the agency publish an annual report? Please provide the web address if available.</p>	<p>Yes. Annual Report are available at: <http://www.competition.gov.jo></p>
<p>B. Does the agency publish press releases related to merger policy or investigations?</p>	<p>Yes. Press releases are also available at: <http://www.competition.gov.jo></p>
<p>C. Does the agency publish decisions on why it cleared / blocked a transaction?</p>	<p>Yes. Article 11(F) of the Competition Law noted that: Decisions issued by the Minister by virtue of the provisions of Article 11 shall be notified to the concerned parties and they may appeal such a decision to the Supreme Court of Justice.</p>

15. Sanctions/penalties

A. What are the sanctions/penalties for failure to file a notification and/or failure to observe any mandatory waiting periods/suspension obligations?	Article 21 of the Competition Law punished the violator of the provisions of Articles 9 and 10 of the Competition Law, or any person who does not comply with those decisions taken by virtue of Article 11 of the Competition Law by a fine in an amount not less than one thousand (1000) Dinars and not exceeding fifty thousand (50000) Dinars.
B. Which party/ies are potentially liable?	The infringing party are the potentially liable.
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.	Impose penalties require a judicial action the infringing party. These procedures are regulated by other laws in the kingdom, such as the Penal Code.

16. Judicial review

Describe the provisions and timetable for judicial review or other rights of appeal/review of agency decisions on merger notification and review.	<p>See Articles 11(F) which noted that decisions issued by the Minister by virtue of the provisions of the Competition Law shall be notified to the concerned parties and they may appeal such a decision to the Supreme Court of Justice.</p> <p>Article 17 (D) of the Competition Law stated that: "Competition cases shall be granted summary status, and the Court may, if it finds appropriate, issue decisions to halt or prevent any action until issuing the final decision."</p>
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17. Additional filings

Are any additional filings/clearances required for some types of transactions, e.g., sectoral regulators, securities	N/A
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regulator?	
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18. Closing deadlines

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

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 time limit on this authority?	<p>Yes.</p> <p>See Article 11 (D) of the Competition Law stipulates that: The Minister may withdraw his previous approval in any of the following cases:</p> <ul style="list-style-type: none">• If the concerned Enterprises violate any of the obligations or conditions upon which the approval was granted.• If it becomes apparent that the basic information upon which the approval was based was false.
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