



France

Global merger control handbook – update

APRIL 2020

Merger control legislation changes since 1 July 2018

On 20 April 2019, a decree regarding the simplification of the national merger control procedure before the French Competition Authority (FCA) was published (Decree n° 2019-339 of 18 April 2019). It materializes a number of measures aimed to alleviate the burden on companies, in particular:

- The decree removes the obligation to submit the notification files in four material copies (and three copies for the files referred to the Autorité de la concurrence by the European Commission). One copy is now sufficient.
- Moreover, it amends Annex 4-3 of the Commercial Code by raising the threshold from 25 % to 30 % from which a market is considered to be affected for the analysis of the vertical effects of a merger and for which more substantial information is required.

In the meantime, the decree simplifies the summary tables of the financial data of the concerned companies, in particular the table provided for Annex 4-4, which now includes only 12 data to be provided (mainly relating to turnovers) against 93 in the previous version.

Finally, since October 2019, the FCA has given businesses the possibility of online notification for certain acquisitions and mergers: (i) transaction without change of retail store name in the food sector, (ii) transaction relating to motor vehicle dealerships and (iii) transaction without overlapping activities or vertical or related links.

Worth noting: the French Competition Authority is considering the possibility to introduce an ex-post control for mergers which do not have an EU dimension but which may raise 'substantial competition concerns' in France.

Landmark merger control cases since 1 July 2018

There has not been any landmark merger control case since 1 July 2018.

However, it is worth mentioning that in its decision dated 27 July 2018, the French Competition Authority (FCA) has fined Fnac Darty Group €20 million for failing to divest itself of three stores, which was the pre-condition for clearance of the transaction.

Background: In 2016, when it examined Fnac's acquisition of Darty, the FCA noted that the transaction was likely to harm competition in the retail markets for brown (televisions, hi-fi and audio equipment) and grey products (personal computers, screens, peripheral devices, telephones) due to the absence of competitive pressure in several catchment areas, especially in Paris. In order to remedy the anticompetitive effects of the transaction, Fnac had committed to divesting itself,

by 1 August 2017, of six stores located in Paris and the Parisian region. Three of the six stores were not sold to an approved buyer before the deadline. The FCA noted that Fnac Darty had failed to meet its divestiture commitments. It failed to submit a divestiture contract or put forward a buyer for one store and the buyer presented for the the two other stores was not approved by the FCA, as it did not meet all the requisite characteristics to compete effectively with the new entity in the brown and grey goods markets. The FCA considered that the failure by Fnac Darty to meet half of its commitments has distorted competition and handed out a fine of €20 million to Fnac Darty Group.

Web link to the national competition authority

French Competition Authority:

<https://www.autoritedelaconurrence.fr/fr>

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