

Antitrust/Competition: Non-Adversarial Proceeding & Merger Control

Egyptian Competition Law: New Guidance on Exchange of Commercially Sensitive Information

The Egyptian Competition Authority ("ECA") has recently released in 2025 three guidelines:

- Exchange of commercially sensitive information under Article (6) of the Competition Law, which prohibits horizontal anti-competitive agreements issued on January 30, 2025.
- Guidelines on exchange of commercially sensitive information during due diligence process, issued on January 30, 2025. These guidelines focus exclusively on the exchange of commercially sensitive information between the parties to the envisioned transaction during the due diligence process. It outlines the key "dos and don'ts", aiming to ensure that companies engaged in M&A activity remain compliant with the rules of the Egyptian Competition Law when sharing data during the due diligence process.
- New detailed guidelines on merger control regime, which were issued in Q&As format on June 23, 2025 ("Merger Control Guidelines"). These guidelines cover the queries pertaining to merger control regime, which were received by the ECA from market players and law firm during the period from April 1st, 2023 until June 2025.

In addition to the above guidelines, the ECA has also introduced officially a pre-notification step into the merger control filing process. This is a notable procedural development in merger control. According to this step, the notifying party will submit a *pre-notification discussion meeting request* to the ECA as per the form published on the ECA's website to request scheduling a pre-notification discussion meeting. The form requires submission of information pertaining to, mainly, the parties to the economic concentration, description of the notified transaction and why it constitutes a notifiable economic concentration, the business activities of the parties to the notified economic concentration and identified overlaps. The submission of the form followed by the pre-notification discussion meeting allows the ECA to communicate its initial views on the critical information pertaining to the notified economic concentration, which must be submitted under the official filing.

The above updates require several contributions to give justice to them. This contribution will shed light on some



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aspects of the Merger Control Guidelines. These guidelines offer detailed guidance on various aspects of merger control regime, where the Competition Law, its executive regulations, and previous ECA's guidelines were silent. These guidelines address the following procedural and substantive issues:

- The scope of the ECA's jurisdiction in respect of merger control.
- Procedures for review of merger control filing.
- The exchange of commercially sensitive information during the due diligence.
- Rules governing the relationship between the parties to the economic concentration prior to its implementation.

Under the Section titled "Scope of the ECA's Jurisdiction", the ECA clarified important issues in relation to interpretation and application of the merger control filing requirements. For example, the ECA clarified that in case of sale of assets during the financial year based on which the financial threshold shall be calculated, the turnover or asset value attributed to the sold asset shall not be taken into account for the purpose of calculating the financial threshold to determine whether the transaction is notifiable. It is our interpretation of the ECA's position that the assets that are no longer under control of the concerned party at the time of submission of the filing to the ECA should be excluded from calculation of the financial threshold.



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