

Press release

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New merger notification thresholds announced

The Competition Commission welcomes the publication of the new determination lifting the thresholds for merger notification gazetted by the Minister of Trade and Industry.

The new determination also includes an inflation-linked fee adjustment for filing merger notifications.

With effect from 1 April 2009, a merger must be notified as an intermediate merger if the value of the proposed merger equals or exceeds R560 million (calculated by either combining the annual turnover of both firms or their assets).

If the combined annual turnover or assets of both the acquiring and target firms are valued at or above R6.6 billion, the merger must be notified as a large merger.

Fees for filing a merger notice increase from R75 000 to R100 000 for an intermediate merger; R250 000 to R350 000 for a large merger. There is no fee for notifying a small merger.

Higher thresholds will be beneficial for businesses in South Africa which will now no longer need to notify smaller transactions.

Competition Commissioner Shan Ramburuth said that for the Commission, higher thresholds would free up resources to address transactions more judiciously, focusing on those likely to have the greatest impact on the market.

"We will also be able to devote more attention to enforcing the Act," he said, "On-going anti-competitive behaviour in various industries, particularly the priority sectors we've identified justify greater attention and more rigorous engagement with industry participants.

He said this would also enable case managers to keep abreast of transactions happening below the thresholds; they have the ability to request a notification should merger review tie in either to the Commission's priority sectors or any investigation underway.

He said the higher thresholds will also allow the Tribunal, which will receive fewer large merger referrals from the Commission, to dedicate more time for the consideration of enforcement and exemption matters.

The Commission estimates 20% fewer mergers may be notified, bringing reviews down from approximately 500 to 350 per annum.

ENDS

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