

# COVID-19 Global Competition Measures

April 24, 2020



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# Executive Summary

Lex Mundi, in conjunction with members of the [Lex Mundi Antitrust and Competition Group](#), has developed this global resource on COVID-19 related competition authority and enforcement updates with insights from over 70 jurisdictions around the world. Information covered in the report includes the impact of the virus on merger review timelines, antitrust investigations / litigation, enforcement priorities, competitor collaborations, price gouging, misleading advertising, as well as additional government (federal, state, or provincial) initiatives applicable.

As enforcement regimes adapt in a time of crisis, companies must remain aware of competition-related risks when determining how to respond to the COVID-19 pandemic.

This report forms a part of Lex Mundi's suite of services and resources to help companies cope with business transformations in the wake of the COVID-19 crisis while adapting to the emergent 'new normal'.

Additional bespoke resources for companies entail:

- COVID-19 Readiness Checks – 'horizon scan' research for individual companies to anticipate risk;
- AI-augmented contract review and revision support;
- Cross-Border Legal Teams – to support business transformations; and
- Government Support Measures Report ([https://www.lexmundi.com/lexmundi/COVID-19\\_Government\\_Support\\_Measures\\_Report.asp](https://www.lexmundi.com/lexmundi/COVID-19_Government_Support_Measures_Report.asp)) – select from 107 jurisdictions to view financial aid measures that have been put into place around the world.

To learn more about our Antitrust and Competition and COVID-19 legal resources, contact Lauren Smith, [lsmith@lexmundi.com](mailto:lsmith@lexmundi.com).

## **Micah Wood**

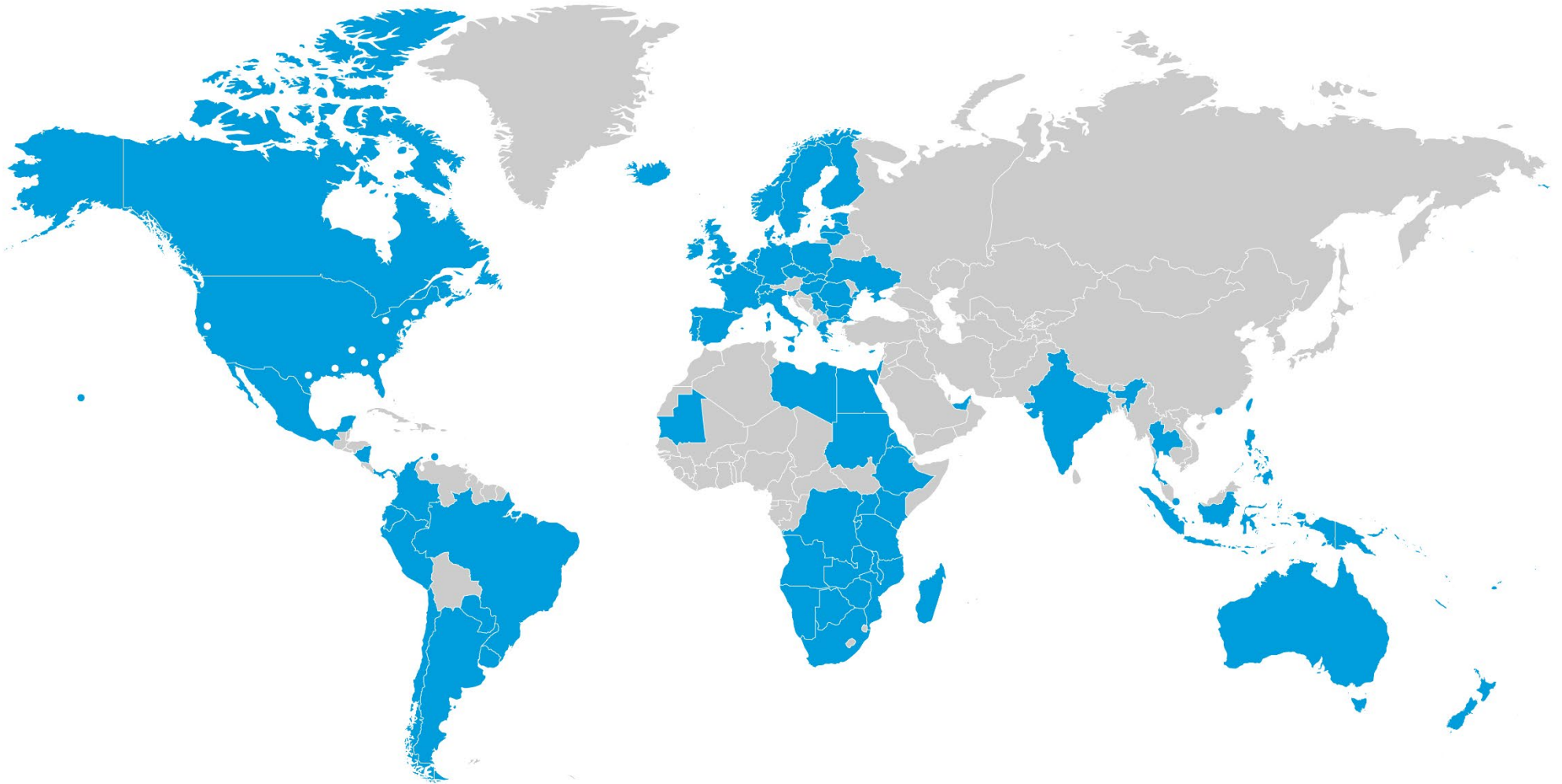
Chair of Lex Mundi Antitrust, Competition and Trade Practice Group  
Partner, Blake, Cassels & Graydon LLP  
[Micah.wood@blakes.com](mailto:Micah.wood@blakes.com)

## **Lauren Smith**

Head of Global Practices  
Lex Mundi  
[lsmith@lexmundi.com](mailto:lsmith@lexmundi.com)

## Lex Mundi Global Coverage

Lex Mundi has developed this global resource on COVID-19 related antitrust and enforcement updates from over 70 jurisdictions around the world.



## COMESA (Common Market for East and Southern Africa)

### Bowmans

**Tamara Dini**

tamara.dini@bowmanslaw.com

**Sivuyise Lutshiti**

sivuyise.lutshiti@bowmanslaw.com

Competition Authority: COMESA Competition Commission (<https://www.comesacompetition.org/>)

### Merger Review

#### New Filings Accepted?

Yes. A press release issued by the COMESA Competition Commission (“**CCC**”) on March 31, 2020 sets out interim processes for merger review under the COMESA Competition Regulations (Regulations) in light of COVID-19 provides that merger notifications are required to be submitted electronically and parties are not expected to submit hard copies of their merger notification to the CCC within the specified 7 days under the COMESA Merger Assessment Guidelines. Hard copies may be submitted at a later date when possible.

In the ordinary course, merging parties are required to notify the CCC within 30 days of their decision to merge. The CCC notes that in light of the restrictions on movement and the lockdown in most countries, some merging parties may not be able to prepare a complete merger notification within 30 days from the date of their decision to merge. In the circumstances, merging parties will not be penalized for failure to submit a complete notification to the CCC within 30 days of the parties’ decision to merge, provided that they notify the CCC of the merger. This is typically done by email, disclosing the merging parties’ names and limited information about the transaction.

#### Waiting Period Delays?

Merger reviews may not be completed within the 120 day merger review period as provided for under Article 25(1) of the Regulations. As such, the 120 day merger review period may be extended in accordance with the Regulations. Notably, however, COMESA is not a suspensory regime.



# Africa and the Middle East

## Investigations/Litigation

### Filings

No official announcements have been made at this stage.

### Delays/Other Considerations

It is expected that CCC officials will be working but that there may be delays in light of COVID-19.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings are being made electronically.

The CCC has suspended onsite investigations and face-to-face meetings with regard to merger investigations. However, consultations and meetings shall continue to be held through teleconferencing facilities until the situation normalizes.

## Other Antitrust Issues

### Competitor Collaborations

No official announcements have been made at this stage.

### Price Gouging

No official announcements have been made at this stage.

### Misleading Advertising

On March 17, 2020 the CCC issued a press release warning companies and individuals selling products with the claim that they can 'treat' or 'prevent' COVID-19, without medical evidence, contravenes article 27 of the Regulations and attracts a penalty of up to USD 300 000.

### Enforcement Priorities

No official announcements have been made at this stage.

### Other Considerations

N/A

## Egypt

### Shalakany Law Office

**Omar Sherif**

[Omar.sherif@shalakany.com](mailto:Omar.sherif@shalakany.com)

**Omneya Anas**

[omneya.anas@shalakany.com](mailto:omneya.anas@shalakany.com)

Competition Authority: The Egyptian Competition Authority (the “ECA”) (<http://www.eca.org.eg/>)

#### **Merger Review**

##### **New Filings Accepted?**

Yes.

##### **Waiting Period Delays?**

N/A. There are currently no merger reviews under Egyptian law as the ECA requires a post-merger notification.

#### **Investigations/Litigation**

##### **Filings**

Yes, any complaints with regard to allegations of violations of the provisions set forth under the Egyptian Competition Protection Law No. 3 for the Year 2005 (the “CP Law”) may be submitted through phone calls/emails to the ECA during the COVID-19 pandemic.

##### **Delays/Other Considerations**

The ECA will review and evaluate all the submitted complaints, though it has issued a statement informing the Egyptian public that there will be delays in the time taken to render a decision. The ECA further stipulated that such delay would vary on a case-by-case basis.

## Communications With the Regulator

### How are filings made/meetings handled?

A prior notice must be given to the ECA before submitting any filings and an appointment must be granted in order to make the filing. While the ECA premises remain open, any documentation submitted must be submitted during a designated two-hour window (10:00 am till 12:00 pm). Furthermore, in addition to the routine filing documentation, the following must be provided to the ECA:

- An explanatory memorandum with all the necessary details regarding the transaction (if applicable); and
- A C.D or flash drive with electronic copies of all the documentation submitted.

Once the documentation has been submitted, the ECA typically reverts to the applicant in case of follow-ups.

It should be noted that the ECA currently authorizes the electronic submission of the filing, however prior notice must be given to the ECA.

## Other Antitrust Issues

### Competitor Collaborations

The ECA recently released a statement with respect to competitor collaborations. In the statement, the ECA acknowledged that certain collaborations between competitors may be necessary to ensure that necessary products (such as medical equipment) are provided to the Egyptian public.

The ECA currently aims to facilitate the collaboration between competitors to reach economic effectiveness (in which products are produced with lower costs of production in good quality). In this regard, the ECA has launched an initiative, through which it provides free and informal advice to firms and companies seeking to collaborate with competitors to evaluate whether their collaboration would be considered to be executed in good faith, and whether it would benefit of the Egyptian public and whether it violates the provisions set forth under the CP Law.

### Price Gouging

Under the CP Law, the Egyptian Council of Ministers is authorized, after consulting the ECA, to set the prices of essential goods and product for a certain period of time. Nevertheless, the Council of Ministers has not issued any statements in this regard.

It should be noted that the Egyptian government has issued general statements warning vendors and traders against any price manipulation tactics; however, no decrees have been issued in this respect.

Furthermore, we would like to note that in light of the COVID-19 pandemic and to support the industrial sector, the Egyptian government decreased the price of electricity and the price of gas for factories operating in the industrial sector.

### Misleading Advertising

The Egyptian government has made general statements outlying the dangers of false information and warning the public against making misleading statements during the COVID-19 pandemic.

Nonetheless, while there have been no decrees issued in this respect during the COVID-19 pandemic, Law No. 95 for the Year 1945 regulating all matters with respect of the supply of goods and products in Egypt, stipulates that any person found guilty of producing false and misleading advertisements will be penalized by imprisonment for a period not less than one year and not exceeding five years. It is also stipulated that said person will be subject to a fine, the amount of which is not less than EGP 10,000 and not exceeding EGP 100,000.

### Enforcement Priorities

The ECA has released several statements indicating its keenness to fulfill its obligations in ensuring that the competitive practices in Egypt are respected during the COVID-19 pandemic.

While the ECA has not made statements regarding enforcement priorities, it appears that the ECA is keen on aiding companies during these challenges times and encouraging collaboration between competitors to ensure that all the necessary goods are provided to the Egyptian public.

### Other Considerations

N/A



## Ethiopia

### Aman Assefa & Associates Law Office

**Aman Assefa**

[Aman.assefa@acclo.com](mailto:Aman.assefa@acclo.com)

Competition Authority: Trade Competition and Consumers Protection Authority (Link presently unavailable)

#### Merger Review

##### New Filings Accepted?

No.

##### Waiting Period Delays?

Due to the Council of Minister's decision on March 24, 2020 to implement "work from home" on federal government's employees and a subsequent decision by the Documents Authentication and Registration Authority (DARA) to temporarily halt its activities, has resulted in suspending the authority's activities of reviewing merger.

The authority will remain to temporarily suspend its activities until further notice from the government and the reopening of the DARA.

#### Investigations/Litigation

##### Filings

Yes. Investigations are still undergoing and the tribunal is accepting filings.

##### Delays/Other Considerations

Due to the government's decision to partially close federal courts on March 18, 2020, the tribunal is giving extended court appointment dates for cases brought before it. Thus, there are anticipated delays on in-person hearings and witness testimonies.

## Communications With the Regulator

### How are filings made/meetings handled?

Merger Notification/filings still continue to be made to the Authority in person, by fax, post or mail. The authority accepts filings made in-person or through electronic means.

## Other Antitrust Issues

### Competitor Collaborations

The authority has not put in place any special rule or system regarding competitor collaborations. However, efforts to collaboratively produce masks were officially recognized by Ethiopian officials.

Moreover, the Council of Ministers issued a State of Emergency Regulation (SoE Regulation) on 11th April 2020. It is stipulated under the SoE Regulation that any manufacturer or service-provider is required to comply with an order of the empowered authority under the SoE to provide manufacture products, increase manufactured products or manufacture new product-line.

Hence, the authority or any other entity may pursuant to the SoE put in place further guidance on competitor collaborations.

### Price Gouging

The authority had set up three teams to investigate price escalation following COVID-19: (i) Factory-based team; (ii). Vegetables and fruits team; and (iii) Cereals used for household consumption.

Pursuant to the authority's investigation, the regulatory body, i.e., Ministry of Trade had reportedly raided businesses suspected of price escalation, hoarding and other related price gouging activities. Commodities such as cereals, pepper, lemon, onion, sanitizer and medical mask are amongst the range of products the Ministry reportedly found to have their prices unfairly escalated.

In addition to the actions taken by the Ministry, the SoE Regulation also stipulates that manufacturers or service providers may be obliged to sell products to government, consumers or cooperative associations as per a price determined by the government.

### Misleading Advertising

False or misleading commercial advertisement is prohibited under the pertinent anti-competition Proclamation (Trade Competition and Consumers Protection Proclamation No. 813/2016).

# Africa and the Middle East

Even more so, spreading information that creates societal chaos and psychological tension has been provided amongst the long-list of prohibited activities under the SoE regulation.

## Enforcement Priorities

While no specific and special priority order has been notified by the authority or even put in place, the authority has been strongly looking into anti-competitive agreements and concerted practices with a view to curb price escalation and price gouging.

## Other Considerations

N/A

## Israel

### S. Horowitz & Co.

**Adv. Hagai Doron**

[hagaid@s-horowitz.co.il](mailto:hagaid@s-horowitz.co.il)

#### Competition Authority:

- The Israel Competition Authority (the “ICA”) <https://www.gov.il/en/departments/competition>
- The Competition Tribunal (Link N/A)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

Generally, no. However, delays may indeed be possible in light of the current national emergency situation in Israel. In that respect, a bill was proposed according to which deadlines for certain governmental decisions – including merger approvals – which currently fall between March 10 and June 30, 2020 shall be automatically extended for an additional period of 90 days from their respective deadline, unless the relevant

government agency decides not to extend a specific deadline. The bill was not formally enacted yet, and no specific notice was issued by the ICA in this regard yet.

Furthermore, the ICA published (as part of a statement published on March 17, 2020) that in light of the COVID-19 crisis, it would allow parties to a merger (whether they have already filed merger notifications with the ICA or intend to do so) to approach the Director General of the ICA in order to discuss and find solutions for difficulties that may arise during the interim period as a result of the unusual current circumstances, until a decision is granted by the Director General.

## Investigations/Litigation

### Filings

Due to the application of the Court Regulations and the Execution Offices (Special Emergency Procedures) all regular court hearings from March 15, 2020 until May 10, 2020, which are not included in the urgent matters described in the Director of the Court of Justice, will be postponed. All

deadlines set in legislation or court decisions to submit pleadings to the court will be postponed accordingly (in exclusion of filings deadlines which the court set a specific date for submission, which might be extended through a motion for extension).

### Delays/Other Considerations

As aforesaid, the abovementioned emergency regulations delay most of the court hearings and filings, including the Tribunal hearings.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings to the ICA are already made electronically, via email irrespective of the current situation. A confirmation of receipt by the ICA is also sent electronically. No change was affected in this respect. In-person meetings and hearings are currently conducted by way of video conferences or other means of remote communication. The Competition Tribunal's hearings and submissions are postponed as a result of the Emergency Regulations until at least May 10, 2020.

## Other Antitrust Issues

### Competitor Collaborations

On March 17, 2020, the ICA published a [statement](#) whereby it clarified that under the current unique circumstances, collaborations among competitors (such as joint ventures), that are meant to ensure the continuity of their ongoing proper operations affected by the COVID-19 crisis,



may generally benefit from the Block Exemption for Joint Ventures, subject to fully meeting its conditions. The ICA further clarified that during such an emergency situation; there would be more cases that justify such collaborations. In addition, it was noted that collaborations, even if are conducted between competitors, which are necessary to enable businesses to cope with hardship stemming from the COVID-19 crisis, would not be regarded as collaborations designed to reduce or to prevent competition, subject to their compliance with all other conditions of the Block Exemption for Joint Ventures.

### Price Gouging

No new or specific laws or regulations were enacted.

The Ministry of Economy and Industry (MEI) announced that it is enforcing price gouging of products (mainly basic foods such as milk and eggs) whose prices are regulated by law as essential consumption goods. In addition, certain voluntary arrangements were agreed to between the MEI and certain retail chains regarding maximum prices of masks and sanitation products (Alco-Gel). See also below regarding the ICA publication (under Enforcement priorities).

Misleading advertising is mainly dealt by the Consumer Protection and Fair Trade Authority (CPFTA). The CPFTA published that it initiated enforcement measures and imposed fines on certain businesses that falsely advertised products as having medicinal qualities of treating or preventing the coronavirus infection.

### Enforcement Priorities

On April 5, 2020, the ICA published a statement where it emphasized that it would closely monitor the food and drug stores/toiletries sectors during the COVID-19 crisis, given the sensitivity and importance of these industries to consumers. It stated it would ensure that there would be no exploitation of the consumers' dependency in order to harm competition or the public. It was also stated that the Director General would not hesitate to use any enforcement measures against such anti-competitive behavior, even at this time.

### Other Considerations

None.

## Kenya

### Bowmans

**Joyce Karanja**

[Joyce.karanja@bowmanslaw.com](mailto:Joyce.karanja@bowmanslaw.com)

**Xolani Nyali**

[Xolani.nyali@bowmanslaw.com](mailto:Xolani.nyali@bowmanslaw.com)

Competition Authority: Competition Authority of Kenya (<https://www.cak.go.ke/>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

No official delays. However, officials of the Competition Authority of Kenya (CAK) are working off site.

### Investigations/Litigation

#### Filings

The CAK will continue to investigate complaints of competition law infringements as well as consumer protection infringements.

#### Delays/Other Considerations

Investigations involving face-to-face interviews with immunity/leniency applicants, meetings with complainants/respondents, and plea or other settlement negotiations may continue, although meetings with external parties are discouraged and the CAK has indicated that it will enable these to take place remotely via video or telephone conference where necessary/possible.

It is anticipated that competition law and consumer protection infringements related to the COVID-19 pandemic will be prioritized over other investigations at this stage.

## Communications With the Regulator

### How are filings made/meetings handled?

Merging parties are encouraged to submit filings electronically. As indicated above, meetings with external parties are expected to take place remotely via video or telephone conference where necessary/possible.

## Other Antitrust Issues

### Competitor Collaborations

No official announcements have been made at this stage. However, on 20 March 2020, the CAK issued an order directing, inter alia, that distributors of certain essential commodities (maize flour, wheat flour, edible oils, rice, sanitizers and toilet papers), who also operate their own retail outlets to avail these essential commodities, and other commodities they distribute, to other retail outlets on non-discriminatory terms.

### Price Gouging

On 13 March 2020, the CAK issued a directive that suppliers and retailers who engage in unconscionable conduct (including increasing prices and hoarding with the intention of subsequently increasing prices of consumer goods) would attract a penalty of up to 10% of the respective turnover of the suppliers and retailers in question pursuant to section 36 (d) of the Competition Act, 12 of 2010 (the “**Act**”).

The directive was issued after it had come to the attention of the CAK that some suppliers and retailers were increasing the prices of and/or hoarding with the intention of subsequently increasing prices of consumer goods. In this respect, there is an ongoing investigation by the CAK to monitor pricing of ‘essential goods’ related to COVID-19.

On 16 March 2020, the CAK issued a press release noting that it had issued a remedial order to Cleanshelf Supermarkets (“Cleanshelf”) after investigations determined that the retailer had ‘unconscionably’ adjusted prices of Tropikal brand hand sanitizers (500ml) in contravention of the **Act**.

*The CAK found that “the retailer therefore exploited its relative strength as a retailer” to the detriment of consumers whose bargaining position had been diminished following the announcement of the existence of COVID-19 in Kenya. The remedial order required Cleanshelf to contact and refund all consumers who purchased the 960 Tropikal brand hand sanitizers sold above the usual selling price.*

# Africa and the Middle East

## Misleading Advertising

No official announcements have been made at this stage.

## Enforcement Priorities

No official announcements have been made at this stage.

## Other Considerations

No official announcements have been made at this stage.

## Mauritius

### Bowmans

**Shianee Calcutteea**

[shianee.calcutteea@bowmanslaw.com](mailto:shianee.calcutteea@bowmanslaw.com)

Competition Authority: Competition Commission of Mauritius (the “CCM”) (<https://competitioncommission.mu>)

### Merger Review

#### New Filings Accepted?

There are no requirements in Mauritius for merger notification. However, the CCM encourages merging parties to notify the CCM before they merge to obtain guidance. Should the CCM become aware of a merger after it has been implemented, it may open an investigation into the merger. It appears that new applications for merger guidance can still be submitted electronically.

#### Waiting Period Delays?

The office of the CCM is closed during the lockdown and although staff are working remotely, we do expect delays.



## Investigations/Litigation

### Filings

The CCM has issued a communiqué to state that any party to existing or ongoing enquiries/investigations may direct their queries by email to their respective contact persons or on [info@competitioncommission.mu](mailto:info@competitioncommission.mu) during the lockdown period.

### Delays/Other Considerations

With the national lockdown, delays are to be expected.

## Communications With the Regulator

### How are filings made/meetings handled?

All communications are being made electronically – either to the contact person or by email to [info@competitioncommission.mu](mailto:info@competitioncommission.mu).

## Other Antitrust Issues

### Competitor Collaborations

Through a communiqué dated 09 April 2020, the CCM emphasized that it will not tolerate commercial conduct on the part of dominant suppliers who seek to exploit the crisis to the detriment of consumers.

The CCM stated that they would not unduly constrain necessary and critical cooperation between enterprises which are in consumers and public interest and which does not go further or last longer than what is necessary.

### Price Gouging

The CCM, in its communiqué, has tried to highlight certain strategies that suppliers can adopt to avoid price gouging. The CCM emphasized that the Mauritian Competition Act 2007 does not prohibit suppliers to set maximum prices for their products “*with a view to limit unjustified price increases at retail level.*” Further, the law does not prohibit suppliers from recommending retail prices and affixing recommended retail prices on their products as long as the words “recommend price” appear on the label.

Consumers who feel aggrieved by high prices can lodge complaints at the Consumer Protection Unit which is a department within the Ministry of Industry, Commerce and Consumer Protection.

# Africa and the Middle East

## Misleading Advertising

Any anticompetitive practices seeking to exclude competitors or exploit consumers will be monitored and sanctions will be taken against them.

## Enforcement Priorities

The CCM has not indicated which matters will take enforcement priorities, although it does seem that anticompetitive practices which seek to exploit consumers will be urgently dealt with.

## Other Considerations

Given that the office of the CCM is closed, all complaints and queries must be submitted electronically.

## South Africa

### Bowmans

**Derek Lotter**

[Derek.lotter@bowmanslaw.com](mailto:Derek.lotter@bowmanslaw.com)

**Richard Bryce**

[Richard.bryce@bowmanslaw.com](mailto:Richard.bryce@bowmanslaw.com)

Competition Authority:

- Competition Commission (Commission) (<http://www.compcom.co.za/>)
- Competition Tribunal (Tribunal) (<https://www.comptrib.co.za/>)
- Competition Appeal Court (<https://www.comptrib.co.za/>)

### Merger Review

#### New Filings Accepted?

New merger filings are being accepted. However, the Commission discourages merger filings other than those involving “failing firms” or “firms in distress” at present.

## Waiting Period Delays?

A national state of disaster was declared on March 15, 2020 and South Africa has been in lockdown since March 27, 2020. Recently the lockdown was extended until the end of April 2020. In accordance with the lockdown, Commission officials are working remotely. However, the Commission has had to scale down its operations and is currently prioritizing COVID-19 matters. As such, the Commission has indicated that it will extend the review period for all intermediate mergers (i.e., complex and non-complex) to 60 business days, which is the maximum review period for intermediate mergers under the Competition Act, No. 89 of 1998 (as amended) (the “**Act**”). In addition, the Commission has indicated that the review period for all large mergers (i.e., complex and non-complex) will be extended to at least 120 business days. For completeness, there is no maximum review period prescribed under the Act for large mergers.

## Investigations/Litigation

### Filings

New complaints are being accepted. However, the Commission discourages the submission of complaints unrelated to COVID-19 and the is currently prioritizing COVID-19 matters.

The Tribunal is also prioritizing COVID-19 matters. However, with the exception of very complex large mergers, matters unrelated to COVID-19 can still be set down before the Tribunal for hearing. Very complex large mergers that are opposed by the Commission will not be set down by the Tribunal for a hearing during the lockdown period. Hearings are taking place by videoconference.

### Delays/Other Considerations

In a [press release](#) issued on March 24, 2020, the Commission noted that complaints relating to abuses of dominance or exploitative practices relating to COVID-19 will be handled by a dedicated team comprising members of the Commission and the National Consumer Commission.

On April 3, 2020, the Competition Tribunal Rules regulating complaint referrals to the Tribunal for alleged COVID-19 excessive pricing contraventions (Rules) were gazetted. The Rules detail the procedural steps applicable when an excessive pricing complaint is referred to the Tribunal, and these Rules will continue to apply for as long as the country is in a declared state of national disaster. The Rules include expedited time periods for the treatment of excessive pricing complaints. They also empower the Tribunal to remedy an excessive pricing contravention by imposing a pricing order on the respondent.

## Communications With the Regulator

### How are filings made/meetings handled?

In a [press release](#) issued on March 18, 2020, the Commission cancelled all external meetings until further notice, postponed indefinitely all workshops and engagements relating to market inquiries and draft guideline submissions and noted that critical interactions will be arranged electronically via teleconference or videoconference. It was noted that filings can still be made via email or alternatively by sharing the necessary documents with the Commission via transfer portals.

The Tribunal has also suspended all face-to-face meetings and hearings, with all meetings and hearings taking place via teleconference or videoconference.

## Other Antitrust Issues

### Competitor Collaborations

In response to COVID-19, the Minister of Trade, Industry and Competition (the Minister) has issued several regulations (the Regulations) exempting specific categories of agreements and practices that may be entered into between competitors in the banking, healthcare, and retail property sectors from the application of sections 4 and 5 of the Act (dealing with horizontal and vertical prohibited practices), in accordance with the criteria set out in the Regulations.

### Price Gouging

On March 19, 2020, pursuant to section 8 (*abuse of dominance prohibited*) of the Act and sections 40 (*unconscionable conduct*) and 48 (*unfair, unreasonable or unjust contract terms*) of the Consumer Protection Act, No. 68 of 2008, the Minister issued regulations specifically prohibiting the excessive pricing of goods such as toilet paper, hand sanitizer, disinfectants, facial masks, rice, maize meal, pasta, long life milk and canned and frozen vegetables (the specified goods), among others, for the duration of the national disaster. In this regard, the Act prohibits a dominant firm from charging excessive prices for goods to the detriment of consumers. In terms of the Act read together with the Regulations, for the duration of the national disaster, an increase in the net margin of the specified goods, which is above the average margin or mark-up over a three-month period preceding March 1, 2020, will constitute a prima facie case of excessive pricing.

In a [press release](#) issued on March 20, 2020, the Commission warned against excessive pricing of the specified goods and emphasized that the Act prohibits various acts of excessive pricing and collusive behavior by suppliers and retailers which artificially inflate prices and exploit consumers.



# Africa and the Middle East

In a [press release](#) issued on March 31, 2020, the Commission noted that it had received 559 complaints since COVID-19 was declared a national disaster in South Africa. The press release also notes that approximately 250 of the complaints fall outside of the scope of the Act, read together with the Regulations. However, the remainder of the complaints are under expedited preliminary investigations, with respondent firms having 48 hours to confirm or rebut the allegations.

## Misleading Advertising

No official announcements have been made at this stage.

## Enforcement Priorities

The Commission and the Tribunal are prioritizing COVID-19 matters (in particular, complaints that relate to the excessive pricing of the specified goods).

## Other Considerations

There may be additional Regulations and/or block exemptions published. Further, those that have been published may be expanded upon.

## Tanzania

### Bowmans

**Wilbert Kapinga**

[Wilbert.kapinga@bowmanslaw.com](mailto:Wilbert.kapinga@bowmanslaw.com)

**Richard Bryce**

[Richard.bryce@bowmanslaw.com](mailto:Richard.bryce@bowmanslaw.com)

Competition Authority: The Tanzanian Fair Competition Commission (FCC) <https://www.competition.or.tz/>

## Merger Review

### New Filings Accepted?

Yes.

# Africa and the Middle East

## Waiting Period Delays?

No official announcements have been made at this stage regarding delays, the FCC is functioning as usual.

## Investigations/Litigation

### Filings

No official announcements have been made at this stage.

### Delays/Other Considerations

No official announcements have been made at this stage.

## Communications With the Regulator

### How are filings made/meetings handled?

The FCC is functioning as usual. As such, hard copy merger notifications are still required to be submitted to the FCC.

## Other Antitrust Issues

### Competitor Collaborations

No official announcements have been made at this stage.

### Price Gouging

On March 19, 2020, the FCC issued a statement warning importers, traders, manufacturers, and dealers of antiseptic products, face masks and gloves that price fixing, creating artificial shortages, and refusing to sell such products is an offence under the Fair Competition Act, 2003.

### Misleading Advertising

No official announcements have been made at this stage.

### Enforcement Priorities

No official announcements have been made at this stage.

### Other Considerations

No official announcements have been made at this stage.

## United Arab Emirates

### Afridi & Angell

**Charles Laubach**

[claubach@afridi-angell.com](mailto:claubach@afridi-angell.com)

**Bashir Ahmed**

[bahmed@afridi-angell.com](mailto:bahmed@afridi-angell.com)

Competition Authority: UAE Federal Ministry of Economy (<https://www.economy.gov.ae/english/Pages/default.aspx>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

No formal measures announced, but delays may be expected.

#### Investigations/Litigation

##### Filings

Electronic filings only.

##### Delays/Other Considerations

No formal measures announced, but delays may be expected.

#### Communications With the Regulator

##### How are filings made/meetings handled?

Electronic filings only.

# Africa and the Middle East

## Other Antitrust Issues

### Competitor Collaborations

No changes.

### Price Gouging

In early April 2020 the Abu Dhabi and Dubai departments of economic development implemented measures to limit the scope of price manipulation and price gouging. The Chairman of the Abu Dhabi Department of Economic Development announced fines, ranging from AED 250,000 to AED 2 million, against economic establishments that increase prices of food and medical items without justification.

The Dubai Economy launched a 'Price Monitor' portal to track daily prices of staple foods and essentials making sure that consumers continue to get their basic needs at fair prices. The 'Price Monitor' will allow shoppers and businesses on a daily basis to track and compare the prices of 41 basic goods including rice, bread, flour, cooking oil, meat, poultry, fish, milk, eggs, water, salt, sugar fruits and vegetables and hygiene essentials such as sanitizers and face masks. A dedicated portal – Price.ded.ae – has also been launched to strengthen communication with consumers and enable them to raise their complaints and queries on price increases faster and easier. Teams from the Commercial Compliance & Consumer Protection sector in Dubai Economy will co-ordinate with retail chains and supermarkets in the Emirate to publish the daily list with the minimum and maximum price.

### Misleading Advertising

No formal measures announced. Misleading advertising in respect of consumer goods and healthcare products has always been prohibited.

### Enforcement Priorities

No formal measures announced.

### Other Considerations

No formal measures announced.

## Australia

### Clayton Utz

#### Michael Corrigan and Simon Ellis

- [mcorrigan@claytonutz.com](mailto:mcorrigan@claytonutz.com)
- [blloyd@claytonutz.com](mailto:blloyd@claytonutz.com)
- [erichmond@claytonutz.com](mailto:erichmond@claytonutz.com)
- [kwebb@claytonutz.com](mailto:kwebb@claytonutz.com)
- [levans@claytonutz.com](mailto:levans@claytonutz.com)
- [jvonthien@claytonutz.com](mailto:jvonthien@claytonutz.com)

Competition Authority: Australian Competition and Consumer Commission (ACCC) (<https://www.accc.gov.au/>)

#### Merger Review

##### New Filings Accepted?

Yes. However, the ACCC has adopted the following measures in managing the crisis:

- cancellation of all non-essential meetings with external parties and travel
- transitioning to a larger proportion of staff working remotely, meaning that internal and external communication will largely be conducted via phone and Skype.

##### Waiting Period Delays?

The ACCC will continue to consider proposed mergers but recognizes timelines for some reviews/applications (including those with statutory timeframes) may need to be extended if there are challenges in conducting and completing the necessary inquiries with merger parties and market participants due to COVID-19. Some reviews will need to be conducted on an urgent basis. The ACCC has also published [more detailed guidance](#) for interested parties.

The ACCC has encouraged parties to consider whether non-urgent applications (e.g. mergers that are more speculative or at a very early stage with no sale agreement) can be postponed but are not actively asking parties to delay their application.



## Investigations/Litigation

### Filings

The ACCC offices are closed to the public restricting the ability to lodge any filings with the Commission in person and electronic filings are required (see "Communications with Regulator" section below).

### Delays/Other Considerations

The ACCC has stated that it will seek to minimize regulatory burden as far as possible and will carefully consider the impact on businesses already under pressure when making decisions about the scope and timing of statutory notice for the production of information and documents. The ACCC will also minimize the use of compulsory examinations, and where they are necessary, we will conduct them by phone or video conference.

## Communications With the Regulator

### How are filings made/meetings handled?

The ACCC offices are closed and all filings are made electronically. The ACCC has adopted the following measures in managing the crisis:

- cancellation of all non-essential meetings with external parties and travel
- transitioning to a larger proportion of staff working remotely, meaning that internal and external communication will largely be conducted via phone and Skype.

## Other Antitrust Issues

### Competitor Collaborations

Since the outbreak of COVID-19 in Australia, the ACCC has granted a number of interim authorizations in a variety of sectors that permit competitors to collaborate to ensure the economy is able to function and provide essential goods, services, medicines and medical equipment, and hardship relief during the COVID-19 pandemic. These include banks, supermarkets, medicine wholesale, airlines, gas/electricity, medical supplies, oil companies, telecommunications, insurers, shopping center owners and private hospitals.

The ACCC has indicated that it will closely monitor the activity being undertaken in pursuit of the interim authorizations. Each interim authorization is subject to a consultation period and final decision made following further investigation and feedback from stakeholders. The period between interim authorization and final decision is typically 6 months.

## Price Gouging

On March 30, 2020, the Federal Government passed the Biosecurity (Human Biosecurity Emergency) (Human Coronavirus with Pandemic Potential)(Essential Goods) Determination 2020 (Determination) which prohibits a person from engaging in price gouging in relation to essential goods if:

- a person supplies, or offers to supply, the goods during the COVID-19 emergency period;
- the person purchased the goods in a retail transaction on or after March 30, 2020; and
- the person supplies or offers to supply the goods for more than 120% of the value for which the person purchased the goods.

Essential goods are:

- any of the following equipment that, when worn, is capable of limiting the transmission of organisms to humans:
  - disposable face masks;
  - disposable gloves;
  - disposable gowns;
  - goggles, glasses or eye visors; or
- any of the following disinfectant products:
  - alcohol wipes;
  - hand sanitizer.

The Determination is not enforced by the ACCC but by the Australian Federal Police. Breach of the Determination is an offense.

## Misleading Advertising

The ACCC continues to enforce business conduct that may be misleading, with a focus on conduct arising in the context of the COVID-19 pandemic.

Recent activity includes:

- the fair treatment of payment processors suspending debits being made on behalf of small business gyms and fitness studios on the basis of 'ACCC advice';
- representations made to consumers by businesses in respect of products sold that prevent COVID-19 or that they business provides a service that prevents infection by COVID-19; and
- representations made with respect to the availability of statutory consumer guarantees during the COVID-19 crisis (for example, where cancellations have occurred).

### Enforcement Priorities

The ACCC has [stated](#) that maintaining competition in the long term is critical to benefit both consumers and the economy and, to ensure a competitive economy, it wants to ensure that any changes to the competitive landscape during the COVID-19 pandemic are temporary.

The ACCC will prioritize competition and consumer issues arising from the impact of COVID-19 above its 2020 Compliance and Enforcement Priorities, including any behavior by businesses which seek to exploit the crisis either to unduly enhance their commercial position or harm consumers.

A COVID-19 taskforce has been established which is focusing on early intervention by engaging directly with businesses, relevant state and federal government agencies, and consumer and other representative groups.

### Other Considerations

The ACCC has issued guidance for [small businesses](#) and for [consumers](#) during the COVID-19 pandemic. The Australian Government Business has also released [information and support for business](#) during this period.

## Hong Kong

### Deacons

**Machiuanna Chu**

[Machiuanna.chu@deacons.com](mailto:Machiuanna.chu@deacons.com)

**Sharon Pang**

[Sharon.pang@deacons.com](mailto:Sharon.pang@deacons.com)

#### Competition Authority:

- Hong Kong Competition Commission
- Hong Kong Competition Tribunal

### Merger Review

#### New Filings Accepted?

N/A. No merger notification requirements under the Hong Kong Competition Ordinance

#### Waiting Period Delays?

N/A

### Investigations/Litigation

#### Filings

The Competition Commission continues its operations to enforce the Competition Ordinance.

#### Delays/Other Considerations

The Competition Ordinance continues to be in full effect. In its press release regarding the application of the Competition Ordinance during the COVID-19 outbreak, the Competition Commission reminds the public that it will remain vigilant to protect consumers from anti-competitive conduct by businesses that take advantage of the outbreak, and anti-competitive conduct committed will be subject to the full force of the competition law.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings may be made via email or registered post. Meetings may be held via telephone or video conferences.

## Other Antitrust Issues

### Competitor Collaborations

The Competition Commission recognizes the need for cooperation among businesses in certain industry sectors, particularly to maintain the supply of essential products and services to consumers. However, the Commission stresses that such cooperation should be on a temporary basis. Businesses that wish to propose such temporary cooperation measures are encouraged to contact the Commission to discuss the application of the Competition Ordinance to the specific measures.

### Price Gouging

The Hong Kong government has resisted pressure to crack down on price-gouging retailers using emergency legislation or categorizing certain essential products (such as face masks) as “reserve commodities”. Nevertheless, the Competition Commission in its press release states its commitment to protect consumers from anti-competitive conduct by businesses who take advantage of the outbreak to engage in anti-competitive conduct.

### Misleading Advertising

The Hong Kong government has warned the public to be vigilant about deceptive or misleading advertising regarding certain essential products such as face masks, hand sanitizers, disinfectant wipes, etc.

### Enforcement Priorities

In its statement regarding the COVID-19 outbreak, the Competition Commission states that it will continue to enforce the Competition Ordinance to protect consumers from businesses seeking to take advantage of the outbreak to justify or engage in collusive conduct or other anti-competitive behavior. The Commission reminds the public that anyone who is aware of such anti-competitive conduct should file a complaint to the Commission, while businesses which are already involved in such conduct should approach the Commission for leniency or cooperation.

### Other Considerations

Although the Competition Commission’s office is temporarily closed due to the outbreak, members of the public may contact the Commission for inquiries or complaints through the telephone hotline or email.



## India

### Shardul Amarchand Mangaldas & Co

**Naval Satarawala Chopra**  
[naval.chopra@AMSShardul.com](mailto:naval.chopra@AMSShardul.com)

**Shweta Shroff Chopra**  
[shweta.shroff@AMSShardul.com](mailto:shweta.shroff@AMSShardul.com)

**John Handoll**  
[john.handoll@AMSShardul.com](mailto:john.handoll@AMSShardul.com)

Competition Authority: Competition Commission of India (CCI) (<https://www.cci.gov.in/>)

#### Merger Review

##### New Filings Accepted?

Yes. Electronic versions of new merger filings are to be made by email. The date for submitting hard copy versions will be notified separately.

Parties may reach out to the CCI to schedule pre-filing consultations through videoconferencing.

##### Waiting Period Delays?

The CCI has stated that it will endeavor to process new as well as pending cases subject to the availability of necessary information and material. Although the CCI is open for business, the nation-wide lockdown (extended to 3 May) means that some delay in processing filings may be expected.

#### Investigations/Litigation

##### Filings

Electronic versions of new complaints can be filed by email. The date for submitting hard copy versions will be notified separately.

All other filings and compliances relating to enforcement proceedings (concerning anti-competitive agreements and abuse of dominant position) before the CCI or the investigating Director General remain suspended. Fresh dates for these filings and compliances will be notified later.

## Delays/Other Considerations

As mentioned above, the CCI has stated that it will endeavor to process new as well as pending cases subject to the availability of necessary information and material. However, hearings before the CCI and proceedings before the investigating Director General (including recording witness statements on oath) remain suspended. As with filings, fresh dates for hearings, etc. will be notified later.

## Communications With the Regulator

### How are filings made/meetings handled?

Until recently the CCI has been functioning remotely, conducting internal meetings, including approving existing merger filings over video conference. Officials working from home have been available over phone and have been processing requests for information, etc. in merger cases already filed.

From April 13, 2020, senior officials have been physically present in CCI offices. However, owing to extended lockdown measures, there is limited support of junior officers and other staff. In-person meetings with the public are not allowed.

As mentioned above, pre-filing consultations are permitted over videoconferencing while hearings and other compliances are being rescheduled.

## Other Antitrust Issues

### Competitor Collaborations

In an advisory issued on April 19, 2020, the CCI recognized that the COVID-19 outbreak has resulted in disruption in supply chains, including those of essential commodities/ services. Businesses may need to coordinate certain activities (for example, sharing data on stock levels, coordinating timing of operations, sharing of distribution network and infrastructure, transport logistics, R&D and production) in order to ensure continued supply and fair distribution.

The CCI has advised businesses considering coordinated conduct in the COVID-19 context that efficiency-increasing joint ventures are not presumed to have an appreciable adverse effect on competition and are, subject to various conditions, permissible. The CCI has advised that only collaboration that is “necessary” and “proportionate” to address the concerns surrounding COVID-19 will be considered. Businesses are cautioned from taking advantage of the COVID-19 situation by acting in an anti-competitive manner. Accordingly, prevailing competition rules – including those in relation to cartels - remain fully in force.

The CCI will consider issues of efficiency enhancement, necessity and proportionality on a case-by-case basis. The onus of demonstrating that these requirements are met is on the parties. There is presently no mechanism for seeking prior approval of/ guidance from the CCI on proposed competitor collaboration.

### Price Gouging

The Government of India has issued price caps for a number of declared essential commodities including pharmaceutical drugs, medical devices, masks and hand sanitizers. Further, directions have been issued to businesses to ensure supply of such products.

The Supreme Court of India has separately directed that COVID-19 tests be provided free of cost to the economically weaker sections of society.

### Misleading Advertising

The Department of Consumer Affairs hosts a portal for registering online complaints of misleading advertising. The Government of India has been pressing social media platforms to remove posts providing misleading information from their systems. Owing to a spread of inaccurate and false news in relation to the COVID-19 outbreak, the Supreme Court of India has directed that only a verified and official version of information is to be published.

### Enforcement Priorities

The CCI has not yet issued any guidance or statement on its enforcement priorities in light of the COVID-19 situation. However, it is expected to keep a watch on potential anti-competitive activity such as price-fixing and bid rigging in the supply of equipment, etc. as part of the COVID-19 response efforts.

Further guidance on the CCI's priorities for urgent hearings, proceedings, etc. in the times of COVID-19 can be expected in due course.

### Other Considerations

The National Company Law Appellate Tribunal (NCLAT), which hears appeals of the CCI's decisions, the Supreme Court of India (which hears appeals of the decisions of the NCLAT) and High Courts (where procedural challenges against the CCI are raised) are not conducting regular sittings during the lockdown. Several courts, including the NCLAT, have ordered that these days will be excluded from the limitation period for filing appeals, etc. The NCLAT has also directed that any interim relief already granted will continue until further orders.

## Indonesia

### ABNR Counsellors at Law

**Chandrawati Dewi**  
[cdewi@abnrlaw.com](mailto:cdewi@abnrlaw.com)

**Gustaaf O. Reerink**  
[greerink@abnrlaw.com](mailto:greerink@abnrlaw.com)

**Bilal Anwari**  
[banwari@abnrlaw.com](mailto:banwari@abnrlaw.com)

#### Competition Authority:

- The Official Website (<https://www.kppu.go.id/id/>)
- Relevant Regulation:
  - Indonesian Competition Commission (Komisi Pengawas Persaingan Usaha the “KPPU”) Regulation No. 1 of 2020 on Electronic Case Handling (“Regulation No. 1/2020”) (<https://www.kppu.go.id/id/wp-content/uploads/2020/04/Perkom-1-Thn-2020.pdf>)
  - KPPU Press Release No. 16/KPPU-PR/III/2020 (“KPPU PC No. 16”) ([https://www.kppu.go.id/id/wp-content/uploads/2020/03/Siaran-Pers-No.-16\\_KPPU-PR\\_III\\_2020.pdf](https://www.kppu.go.id/id/wp-content/uploads/2020/03/Siaran-Pers-No.-16_KPPU-PR_III_2020.pdf))
  - KPPU Press Release No. 21/KPPU-PR/IV/2020 (“KPPU PC No. 21”) ([https://www.kppu.go.id/id/wp-content/uploads/2020/04/Siaran-Pers-No.-21\\_KPPU-PR\\_IV\\_2020.pdf](https://www.kppu.go.id/id/wp-content/uploads/2020/04/Siaran-Pers-No.-21_KPPU-PR_IV_2020.pdf))

### Merger Review

#### **New Filings Accepted?**

Yes.

## Waiting Period Delays?

The procedures and timeline for merger notification and assessment during the COVID-19 outbreak will remain the same.

In relation to this matter, based on KPPU PC No. 16, the Commission has issued a policy to give leeway to a business actor carrying out a merger, consolidation or acquisition (including transfer of productive assets) to file the notification form following the end of the work-from-home (WfH)

policy on April 2, 2020 (subject to reassessment of the situation during the COVID-19 Outbreak). Currently, the KPPU has not yet issued a press release to indicate whether or not the WfH policy is to be extended.

## Investigations/Litigation

### Filings

Submission of allegations, clarification of allegations, investigations (including investigations of alleged delay merger notification), hearings, monitoring of behavioral remedy and summons are performed using electronic media and teleconferences.

Examination of the parties can be performed via email or visual teleconferences.

Requests for, submission of and/or acceptance of digital evidence are performed by email.

Witnesses and experts that must testify under oath are required to swear their oath through a visual teleconference. An investigator will guide the process. The witness or expert who swears an oath or promise must be facilitated by the oath-taking equipment.

The statements given by the reporting party, reported party, witness and/or expert (the “Parties”) must be recorded in minutes and the statement of approval of the minutes of meeting will be sent by the Parties to the investigator through email.

### Delays/Other Considerations

Procedures and timelines for case handling or investigations remain the same. In the current situation, we believe that in practice, the case handling period may have to be extended.



## Communications With the Regulator

### How are filings made/meetings handled?

Pursuant to Regulation No. 1/2020, the filings may be made through the official website/email address of the KPPU.

The Tribunal remains in operation. However, as the WfH policy may be extended by the KPPU, hearings at the KPPU premises may be temporarily suspended. Regulation No. 1/2020 also provides that hearings may be carried out by teleconference. As this regulation is still quite new (stipulated on April 6, 2020), we are not sure whether this regulation has yet been fully implemented by the KPPU.

## Other Antitrust Issues

### Competitor Collaborations

We are not aware of any regulation, policy or press release issued by the Commission on this matter.

### Price Gouging

The KPPU has issued KPPU PC No. 16 and KPPU PC No. 21.

Under these press releases, the KPPU ordered businesses not establish a cartel, excessive price arrangement, and/or hoarding of personal protective equipment (PPE) and basic needs items. The KPPU will take legal action against any such violations.

### Misleading Advertising

We are not aware of any regulation, policy or press release issued by the KPPU on this matter.

### Enforcement Priorities

Due to the COVID-19 outbreak, the KPPU is focusing its attention on the procurement of PPE and food commodities as basic needs of the community (currently the KPPU is paying attention to the price of granulated sugar).

### Other Considerations

Requests for public information, competition law-related and partnership consultations, and applications for research/intern/study visits may be submitted to [infokom@kppu.go.id](mailto:infokom@kppu.go.id).

The filing of reports on allegations of violations of competition law and partnerships, and public complaints, may be submitted to [pengaduan@kppu.go.id](mailto:pengaduan@kppu.go.id).

## New Zealand

### Simpson Grierson

**James Craig**

[James.craig@simpsongrierson.com](mailto:James.craig@simpsongrierson.com)

Competition Authority: New Zealand Commerce Commission (<https://comcom.govt.nz/>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

No, although the Commission has [stated](#) it may need an extension if there are delays in receiving responses to information requests due to COVID-19.

#### Investigations/Litigation

##### Filings

The Commission has not given any specific guidance on this.

##### Delays/Other Considerations

The Commission has [stated](#) that it is aware of the pressures that COVID-19 is putting on businesses and it will work with businesses under investigation regarding challenges they are facing as they respond to government measures put in place regarding COVID-19.

In practice the Commission is allowing more time for parties under investigation to respond to information requests.

## Communications With the Regulator

### How are filings made/meetings handled?

The Commission's offices are closed and it has [stated](#) that meetings will take place via teleconference or Microsoft Teams calls.

## Other Antitrust Issues

### Competitor Collaborations

The Commission has [stated](#) that it will not take enforcement action under New Zealand competition law against businesses that are cooperating to ensure New Zealanders continue to be supplied with essential goods and services during COVID-19.

However, the Commission further stated that it will not tolerate businesses using COVID-19 as an excuse for non-essential collusion or anti-competitive behavior, including sharing information on pricing or strategy where it isn't necessary in the current situation.

For businesses that do not provide essential goods and services, the Commission has stated its belief that New Zealand's competition laws are sufficiently flexible to accommodate legitimate arrangements or collaborations between competitors in certain circumstances. The standard exceptions that apply here to cartel conduct are for collaborative activities, vertical supply arrangements and joint buying arrangements.

### Price Gouging

The Commission has not given any specific guidance on this.

### Misleading Advertising

The Commission has [stated](#) that it is working with other Government agencies to address any reports of claims related to COVID-19 that may confuse or mislead consumers. For example, if a business claims that their product or service provides a cure or prevention for COVID-19 they must have evidence showing a reasonable basis for that claim or they will breach the Fair Trading Act 1986.

### Enforcement Priorities

See above.

## Other Considerations

In relation to regulated industries, the Commission has [stated](#) it intends to be pragmatic in its approach to enforcement where companies can show that compliance issues have arisen as a consequence of prioritizing efforts to protect customers, security of supply and safety or as a consequence of factors entirely outside of the company's control during COVID-19.

The Commission also expects to ease regulatory reporting processes.

## Philippines

### Romulo Mabanta Buenaventura Sayoc & de los Angeles

**Carlos Martin Tayag**

[Carlos.tayag@romulo.com](mailto:Carlos.tayag@romulo.com)

Competition Authority: Philippine Competition Commission (<http://www.phcc.gov.ph/>)

## Merger Review

### New Filings Accepted?

No. The running of the 30-day period to file (counted from signing of definitive agreements) has been suspended from March 16, 2020 to the end of the community quarantine. Parties shall have the remaining balance of the 30-day period to file their notifications.

### Waiting Period Delays?

Yes. The evaluation of sufficiency of filings has been suspended from March 16, 2020 to the end of the community quarantine (scheduled to end on April 30, 2020).

Waiting period for filings that were already in Phase 1 or Phase 2 review when the community quarantine was declared continue to run.

## Investigations/Litigation

### Filings

Not accepted.

### Delays/Other Considerations

The statutory periods for the filing of pleadings, motions, affidavits, and other submissions, and the payment of fines or penalties to the Commission are deemed interrupted from March 16, 2020 to the lifting of the community quarantine (scheduled to end on April 30, 2020). Parties shall have the balance of their respective reglementary periods to file their submissions with, or to pay the fines and penalties imposed by, the Commission. Submissions and payments made during the remaining period shall be considered to have been timely made.

## Communications With the Regulator

### How are filings made/meetings handled?

Communications are by e-mail and phone.

## Other Antitrust Issues

### Competitor Collaborations

There have been no COVID-19-related pronouncements by the Commission regarding competitor collaborations.

### Price Gouging

The Philippine Congress passed Republic Act No. 11469 declaring a state of public health emergency because of COVID-19. The law penalizes hoarding, profiteering, injurious speculations, manipulation of prices, product deceptions, and cartels, monopolies or other combinations in restraint of trade, or other pernicious practices affecting the supply, distribution, and movement of certain goods, with imprisonment of two months or a fine of not less than PHP10,000 (c. USD200) but not more than PHP1,000,000 (c. USD20,000) or both, at the discretion of the court.

The Departments of Agriculture, Health, and Trade issued Joint Memorandum Circular No. 2020-01, imposing price ceilings on certain basic and essential necessities. Any persons found violating the price ceilings will be liable for a fine of between PHP5,000 (c. USD100) and PHP2,000,000 (c. USD40,000) and imprisonment of not less than five years but not more than 15 years.

### Misleading Advertising

See above.



## Enforcement Priorities

There have been no COVID-19 related pronouncements by the Commission regarding enforcement priorities.

## Other Considerations

None.

## Singapore

### Rajah & Tann Singapore LLP

**Kala Anandarajah**

[Kala.anandarajah@rajahtann.com](mailto:Kala.anandarajah@rajahtann.com)

#### Competition Authority:

- Competition Appeal Board (<https://www.mti.gov.sg/Legislation/Legislation/Competition-Appeal-Boards>)
- Competition and Consumer Commission of Singapore (<https://www.cccs.gov.sg/>)

## Merger Review

### New Filings Accepted?

Yes.

### Waiting Period Delays?

There have been no announcements made in that regard. However, due to the circuit breaker measures introduced by the government to contain the spread of COVID-19, which take effect from April 7, 2020 to May 4, 2020 (the “Relevant Period”), the majority of CCCS staff will be telecommuting during the Relevant Period. Therefore, delays are expected as it will be more difficult for parties to speak to the CCCS and for the CCCS to hold meetings for internal decision making.

## Investigations/Litigation

### Filings

The Commission has not given any specific guidance on this.

### Delays/Other Considerations

Delays in investigations may be expected as the majority of CCCS staff are telecommuting and face-to-face meetings with the CCCS may be suspended until after the Relevant Period.

## Communications With the Regulator

### How are filings made/meetings handled?

**CCCS:** Parties are [encouraged](#) to call or email the CCCS if they need to reach the CCCS for any matter. For merger filings, parties should first email the CCCS to seek guidance on how to notify.

**CAB:** Filings to the CAB will still be accepted. Hearings before the CAB are likely to be suspended until after the Relevant Period.

## Other Antitrust Issues

### Competitor Collaborations

The CCCS has not made any public statement on how it will consider competitor collaborations in light of COVID-19. Competitors should continue to comply with the relevant provisions of the [Competition Act](#) in their dealings with one another.

### Price Gouging

The [Ministry of Trade and Industry](#) (“MTI”), which has powers to look into pricing practices under the [Price Control Act](#), [issued letters](#) to two errant retailers in January and February 2020 for engaging in profiteering practices involving the inflation of prices of surgical masks. No further action has been taken against the errant retailers, who have apologized and reduced the prices of their surgical masks, but the MTI will continue to monitor the situation closely. Businesses which provide products or services intended to deal with the COVID-19 outbreak are not allowed to engage in such profiteering practices.

### Misleading Advertising

The powers of the CCCS under the [Consumer Protection \(Fair Trading\) Act](#) allows it to investigate misleading advertising and other unfair trade practices by businesses which take advantage of consumers' concerns about COVID-19 to mislead or deceive them into making purchases. The public can submit complaints of such practices to the [Consumers Association of Singapore](#) in the first instance, which may refer the complaints for investigation by the CCCS.

The [Advertising Standards Authority of Singapore](#) issued a reminder to all business providing products and services for COVID-19 to advertise responsibly and ethically. The [Health Sciences Authority](#) also [reminded](#) businesses not to make false and misleading claims about the effects that the products they sell have on diseases such as COVID-19.

### Enforcement Priorities

The CCCS has not made any public statement on its enforcement priorities for COVID-19. However, it is likely to closely monitor anti-competitive practices and unfair trade practices relating to COVID-19.

### Other Considerations

Walk-in services for feedbacks/complaints to the CCCS are suspended until further notice. Any [feedback/complaint](#) can be submitted to the CCCS electronically, by fax or by post.

## Taiwan

### Tsar & Tsai Law Firm

**Matt Liu**

[mattliu@tsartsai.com.tw](mailto:mattliu@tsartsai.com.tw)

Competition Authority: Taiwan Fair Trade Commission (<https://www.ftc.gov.tw/internet/english/index.aspx>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

No. The TFTC is operating as usual. However, due to the difficulty to collect information, the parties may need more time to respond to the RFIs. Therefore, parties should expect a longer pre-notification period.

#### Investigations/Litigation

##### Filings

Filings are accepted as usual.

##### Delays/Other Considerations

Investigations may be slow down a little bit due to the TFTC's top priority in investigating potential cartel and misleading advertising conduct amid COVID-19 (e.g. stockpile of instant noodles and toilet paper).

#### Communications With the Regulator

##### How are filings made/meetings handled?

The TFTC still accepts hardcopy filings. Face-to-face meetings are conducted only when necessary. No virtual meetings are conducted so far.

## Other Antitrust Issues

### Competitor Collaborations

The TFTC has not issued any official enforcement policy on competitor collaborations amid COVID-19. Government-led competitor collaborations in manufacturing as many essential products as possible are in fact supported by the TFTC. However, it is unclear whether competitor collaborations without the government's involvement will be supported by the TFTC. It is advisable to seek approval from the TFTC before implementation of such collaborations.

### Price Gouging

Price gouging is now on the top of the TFTC's enforcement agenda. The TFTC is closely monitoring the prices of essential goods and is very likely to investigate price gouging to find out whether there is any cartel activity.

### Misleading Advertising

Misleading advertising is now also a priority on the TFTC's enforcement agenda. The TFTC has received several misleading advertising complaints involving retailers' inability to sell products that are advertised to be on sale.

### Enforcement Priorities

Cartel (e.g. price fixing and agreement on production volume) and misleading advertising are now enforcement priorities.

### Other Considerations

Merger filings are advised to be filed as soon as possible because parties may need more time to collect information requested by the TFTC.



## Thailand

### Tilleke & Gibbins

**Kobkit Thienpreecha**  
[kobkit.t@tilleke.com](mailto:kobkit.t@tilleke.com)

**Nopparat Lalitkomon**  
[nopparat.l@tilleke.com](mailto:nopparat.l@tilleke.com)

**Sappaya Surakitjakorn**  
[sappaya.s@tilleke.com](mailto:sappaya.s@tilleke.com)

Competition Authority: Office of Trade Competition Commission (“OTCC”) (<https://otcc.or.th/>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

For pre-merger approval, the OTCC is required under the Thai Trade Competition Act (“TCA”) to complete its consideration within 90 days from the receipt date of the application for pre-merger approval. This statutory timeline should not be affected by the COVID-19 outbreak.

However, the TCA does not provide a statutory timeframe for the consideration of a post-merger notification. In practice, the timeframe for a post-merger notification is subject to various factors (e.g. workload of the case officers and the complexity of the matter). Therefore, it is advisable that the merging parties should discuss timelines with the OTCC officers on a case-by-case basis.

#### Investigations/Litigation

##### Filings

According to the Trade Competition Commission’s (“TCC”) guidelines for competition litigation under the TCA, the claimant is entitled to file a complaint with the TCC in writing, or by email, or in person to a TCC officer, or by telephone.

## Delays/Other Considerations

The OTCC has not yet issued an official statement concerning the impact that the COVID-19 outbreak may have on its investigation process, or the overall timeframe for the investigations/litigation.

## Communications With the Regulator

### How are filings made/meetings handled?

For investigation/litigation filings, the TCC's guidelines for competition litigation allows for the filings to be made to the OTCC via electronic means, such as email.

However, merger filings to the OTCC are still required to be made in the form of paper filings. At present, the OTCC has not issued subordinate legislation to allow electronic filings.

The OTCC remains in operation, but in-person meetings are not encouraged at this time. The OTCC also allows for conference calls to be made in place of physical meetings.

## Other Antitrust Issues

### Competitor Collaborations

On April 1, 2020 the OTCC has issued an official statement warning that the collaboration between food delivery platform providers, in order to increase their charges or to impose additional fees on restaurants, which will also result in raising food prices, may constitute an offence under the TCA. The OTCC further states that it is closely monitoring food delivery platform providers for any actions which may violate the TCA.

### Price Gouging

On April 1, 2020 the OTCC issued an official statement warning food delivery platform providers against raising their charges to a much higher level (from 20 percent to 35-40 percent) during the COVID-19 outbreak. The OTCC further stated that if they find that such conduct falls within the scope of unfair trade practice, and causes damage to other business operators, the offender will be liable for administrative fines not exceeding 10 percent of their turnover in the year that such offense is committed.

### Misleading Advertising

There are currently no enforcement precedents by the OTCC in respect to misleading advertising due to COVID-19.

## Asia and the Pacific

### Enforcement Priorities

During the past year, the TCC has been actively pursuing enforcement of the TCA, and the first three precedent cases under the current TCA involves the abuse of a dominant market position, as well as unfair trade practices.

The OTCC has also recently issued guidelines that focused specifically on unfair trade practice in franchise businesses, as well as guidelines for unfair trade practices in wholesale and retail businesses.

### Other Considerations

N/A

## European Union

### Noerr LLP

**Fabian Badtke**

[fabian.badtke@noerr.com](mailto:fabian.badtke@noerr.com)

**Karsten Metzlaff**

[karsten.metzlaff@noerr.com](mailto:karsten.metzlaff@noerr.com)

**Peter Stauber**

[peter.stauber@noerr.com](mailto:peter.stauber@noerr.com)

**Alexander Birnstiel**

[alexander.birnstiel@noerr.com](mailto:alexander.birnstiel@noerr.com)

**Jens Peter Schmidt**

[jens.schmidt@noerr.com](mailto:jens.schmidt@noerr.com)

Competition Authority: European Commission Directorate-General for Competition (<https://ec.europa.eu/competition/antitrust/coronavirus.html>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

Yes. Commission encourages parties to delay filings and will seek to handle waiting periods flexibly (through pre-notification and requests for information).

### Investigations/Litigation

#### Filings

**Commission**: Filings with the Commission are still possible. The anonymous whistle blower tool is also still maintained.

**EU Courts**: Filings with EU Courts are still possible. Also, procedural time limits for instituting proceedings and lodging appeals continue to run.

#### Delays/Other Considerations

**Commission**: Commission's ability to conduct dawn raids is likely greatly reduced in the short term, because Commission went into partial lockdown on March 16, 2020.

**European Courts:** Judicial activity continues, but priority is given to those cases that are particularly urgent (urgent proceedings, expedited proceedings and interim proceedings).

Hearings that are listed until April 30, 2020 (Court of Justice) and May 15, 2020 (General Court) respectively are adjourned until a later date. Both courts are understood to be approaching some parties to litigation, asking whether they would prefer to advance the case through another round of written pleadings rather than push for a hearing.

## Communications With the Regulator

### How are filings made/meetings handled?

**Commission:** Commission filings are requested to be made electronically. In-person hearings are temporarily suspended but the Commission will hear urgent matters by teleconference.

The whistle blower tool allows for electronic filing. Leniency filings can also be made remotely via [eLeniency](#).

**European Courts:** Parties are strongly encouraged to use [e-Curia](#) for remotely lodging and servicing of procedural documents.

## Other Antitrust Issues

### Competitor Collaborations

The Commission published a Temporary Antitrust Framework for assessing antitrust issues related to business cooperation in response to COVID-19 on April 8, 2020. Under the Framework the Commission will refrain from scrutinizing certain temporary cooperation projects aimed at addressing the shortage of essential products and services during the COVID-19 outbreak. Companies should document all exchanges and agreements between them and be able to make them available to the Commission on request.

Prior to publishing the Framework, the Commission (as part of the European Competition Network) stated in more general terms that it would “[not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply.](#)”

The Commission is also willing to provide temporarily ad hoc written comfort to companies in relation to specific and well-defined cooperation projects (Comfort Letter).



In addition, it set up a [dedicated website](#) to help companies assess the compatibility of their business arrangements with EU competition law. In case there is still uncertainty, the Commission is ready to provide guidance via a mailbox it has set up (COMP-COVID-ANTITRUST@ec.europa.eu).

## Price Gouging

According to the [Temporary Antitrust Framework](#), the Commission will not tolerate conduct by companies that opportunistically seek to exploit the crisis. This includes exploitation of a dominant position conferred by the particular circumstances of this crisis by, for example, exploiting customers and consumers by charging prices above normal competitive levels.

In addition, the Commission informed manufacturers that they can set maximum prices for their products (thus limiting the possibility for price gouging within the distribution chain).

## Misleading Advertising

N/A

## Enforcement Priorities

The Commission stated it will not tolerate conduct by undertakings that opportunistically seek to exploit the crisis as a cover for anti-competitive collusion or abuses of their dominant position. Companies and citizens are asked to report on such violations.

## Other Considerations

N/A

## Belgium

### Liedekerke Wolters Waelbroeck Kirkpatrick

**Stefaan Raes**

[s.raes@liedekerke.com](mailto:s.raes@liedekerke.com)

**Vincent Mussche**

[v.mussche@liedekerke.com](mailto:v.mussche@liedekerke.com)

Competition Authority: Belgian Competition Authority (<https://www.belgiancompetition.be/en>)

#### Merger Review

##### New Filings Accepted?

The Belgian Competition Authority (“**BCA**”) has released a press statement in which it invites undertakings to delay any project of concentration that is not urgent.

See: [https://www.belgiancompetition.be/sites/default/files/content/download/files/20200319\\_press\\_release\\_13\\_bca\\_0.pdf](https://www.belgiancompetition.be/sites/default/files/content/download/files/20200319_press_release_13_bca_0.pdf)

##### Waiting Period Delays?

There has been no official communication on waiting period delays. According to the BCA all staff members are teleworking and the handling of cases will continue. However, the BCA has also stated that the containment measures may have an impact on the ability to handle merger cases, in particular on the gathering of information from the parties and third parties.

See: [https://www.belgiancompetition.be/sites/default/files/content/download/files/20200319\\_press\\_release\\_13\\_bca\\_0.pdf](https://www.belgiancompetition.be/sites/default/files/content/download/files/20200319_press_release_13_bca_0.pdf)

#### Investigations/Litigation

##### Filings

**BCA:** The offices of the BCA are closed until further notice. All staff members are teleworking and the handling of cases will continue.

For information on cases under investigation or any new cases, the following persons can be contacted:

- Véronique Thirion, Competition Prosecutor General: [veronique.thirion@bma-abc.be](mailto:veronique.thirion@bma-abc.be).
- Nathalie Sterckval, responsible for the secretariat of the President and the Investigation and Prosecution Service: [nathalie.sterckval@bma-abc.be](mailto:nathalie.sterckval@bma-abc.be).

## Delays/Other Considerations

**BCA:** The offices of the BCA are closed until further notice. All staff members are teleworking and the handling of cases will continue.

## Communications With the Regulator

### How are filings made/meetings handled?

**BCA:** No physical meetings are taking place as the offices of the BCA are closed. Filing is done electronically.

## Other Antitrust Issues

### Competitor Collaborations

For the time being, the BCA has not officially announced that the Belgian competition law rules applicable to agreements between competitors will be adapted in order to address the COVID-19 crisis. The BCA collaborates with the competition authorities of the other Member States of the European Union and with the European Commission within the framework of the European Competition Network (ECN).

The ECN has released a joint statement (“Joint statement by the European Competition Network (ECN) on application of competition law during the Corona crisis”) in which it explicitly states that competition rules ensure a level playing field between companies and that this objective remains relevant also in a period when companies and the economy suffer from crisis conditions. The statement also provides that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers. In the current circumstances, the ECN will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply.

This is also confirmed by the EU Commission in its Framework Communication which sets out the conditions under which cooperation between competitors is allowed in COVID-19 related emergency situations, where this cooperation is aimed at ensuring the supply/distribution of essential scarce products and services and avoiding the shortages of such essential products and services.

However, this cannot be considered as a go-ahead for undertakings to infringe competition law. Every cooperation between competitors can and will be assessed on a case by case basis. Under the current rules and in the light of the recent EU developments, the following forms of cooperation seem to be justified:

- Cooperation through a trade association (e.g. for joint transport for input materials; for the identification of essential medicines for which there are risks of shortages; etc.);
- Cooperation to coordinate the reorganization of production with a view to increasing and optimizing output where such reorganization would allow producers to satisfy demand for urgently needed medicines and avoid shortages;
- Exchange of sensitive information that are designed and objectively necessary to actually increase output in the most efficient way to address or avoid a shortage of supply of essential products or services; that are temporary in nature; and that do not exceed what is strictly necessary to achieve the objective of addressing or avoiding the shortage of supply.

## Price Gouging

N/A

## Misleading Advertising

N/A

## Enforcement Priorities

The joint statement of the ECN states that it understands that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers. In the current circumstances, the ECN will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply

However, this cannot be considered as a go-ahead for undertakings to infringe competition law.

Every cooperation between competitors can and will be assessed on a case by case basis. The ECN will not hesitate to take action against undertakings taking advantage of the COVID-19 crisis by entering into a cartel on such products or services.

## Other Considerations

**Abuse of dominant position:** The ECN states explicitly in its joint statement it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current situation remain available at competitive prices.

The ECN will therefore not hesitate to take action against companies taking advantage of the COVID-19 crisis by abusing their dominant position. The impact of the COVID-19 crisis on abuses of dominant position is unclear. It is nevertheless probable that surviving undertakings might benefit from the failure of their competitors and secure a significant market share which may bring them within the threshold of dominance.

## Bulgaria

### Penkov, Markov & Partners

**Ivan Markov**

[ivan.markov@penkov-markov.eu](mailto:ivan.markov@penkov-markov.eu)

**Smilena Hrusanova**

[smilena.hrusanova@penkov-markov.eu](mailto:smilena.hrusanova@penkov-markov.eu)

Competition Authority: Competition Protection Commission (“CPC”) (<https://www.cpc.bg/SearchResults.aspx>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

Based on the Emergency Measures and Actions during the State of Emergency Act (“EMASEA”) the timelines of the ongoing proceedings before CPC were ceased for the period of the state of emergency, initially introduced by the Bulgarian Parliament for the period from March 13 to April 13, 2020.

However, by virtue of the very recent amendment of the EMASEA, the time limits for proceedings before the CPC are restored as of April 17, 2020. Hence, all the mergers’ reviews shall be delayed with the abovementioned period and renewed in due course.



## Investigations/Litigation

### Filings

With an explicit order of the CPC's Chairman, the submission of any kind of documents should be done mainly by post or by electronic means. Paper filings in the premises of the CPC are also allowed, however, only upon abiding strict hygiene requirements, such as mandatory wear of masks and gloves, maintaining distance, restriction of the maximum visitors at once etc.

### Delays/Other Considerations

In the context of the above said suspension of the procedures' timelines, an overall delay in the investigation part of the ongoing proceedings before CPC is expected - by the time for which all and any time-limits in these proceedings was suspended.

Further on and pursuant to the explicit provision of EMASEA, for the period from March 13 until the state of emergency is lifted (currently extended by the Parliament until May 13, 2020), the procedural terms in litigation proceedings shall cease to run, except for the proceedings having as a subject matter consideration of the preliminary execution of acts of the CPC. Therefore, any appeal filed against act of CPC shall be administered but a court file thereunder shall be formed only after the state of emergency would be lifted.

## Communications With the Regulator

### How are filings made/meetings handled?

As outlined above, filings can be made either by physical submission of the documents in the CPC's premises while complying with the imposed hygiene requirements, by post or electronically.

Participants appearing before the CPC must abide by the strict hygiene protection requirements and distance restriction rules.

By virtue of explicit order of the CPC's Chairman dated April 10, 2020 the open hearings of the Commission are restored and may be held not only face-to-face but also remotely by providing direct and virtual participation of the respective parties, witnesses and other participants.

## Other Antitrust Issues

### Competitor Collaborations

The European Commission has published on April 8, 2020 a Temporary Framework for assessing antitrust issues related to business cooperation in response to situations of urgency stemming from the current COVID-19 outbreak. The Bulgarian CPC has adopted an approach for handling the anti-trust issues in the light of the epidemic situation in full compliance with the guidelines of the European Commission.

In this regard so as to avoid shortages of “products that are vital to the physical survival of the society”, the CPC is ready to adopt a more lenient approach to temporary and proportionate coordinated measures taken by market participants, pursuing only the stated goals and necessary to achieve them.

## Price Gouging

The CPC shall continue to closely monitor and competitively evaluate the behavior of the market participants so as to ensure that essential public health products (such as masks, disinfectants and other products necessary to protect the health and life of citizens in the context of this emergency) offer competitive prices on the market and their supply will not be impeded.

## Misleading Advertising

The CPC shall vigilantly monitor the advertising practices in the light of the legal requirements, including the presence of deceptive marketing for products claiming to prevent the virus.

## Enforcement Priorities

The CPC will not tolerate conduct by undertakings that opportunistically seek to exploit the crisis as a cover for anti-competitive collusion or abuses of their dominant position by, for example, exploiting customers and consumers (e.g. by charging prices above normal competitive levels) or limiting production to the ultimate prejudice of consumers (e.g. by obstructing attempts to scale up production to face shortages of supply).

On this note, the CPC will closely monitor the processes and intervene in any attempt for market cartelization or abuse of dominant position with the aim of gaining profits from the current situation. The CPC will also place emphasis on the pharmaceutical, food and commerce markets.

## Other Considerations

The CPC is showing readiness to offer timely informal guidance on specific initiatives that the market participants intend to undertake in order to guarantee the legality of these initiatives in the conditions of crisis caused by the spread of COVID-19 and to achieve maximum legal certainty and foreseeability of the enforcement measures.

## Cyprus

### Dr. K. Chrysostomides & Co LLC

**Anna Rossides**

[a.rossides@chrysostomides.com.cy](mailto:a.rossides@chrysostomides.com.cy)

**Alexandros Efstathiou**

[a.efstathiou@chrysostomides.com.cy](mailto:a.efstathiou@chrysostomides.com.cy)

#### Competition Authority:

- Commission for the Protection of Competition (“CPC”) (<http://www.competition.gov.cy/>)
- Consumer Protection Service of the Ministry of Energy, Commerce and Industry (<http://www.consumer.gov.cy/>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

No – Clearance of Phase 1 notifications (including those for which an RFI is sent out to the parties) is currently granted within the one- month statutory deadline.

### Investigations/Litigation

#### Filings

Filings continue to be made, both in hard copy and electronically, as before, but the CPC’s premises are closed to the public, until further notice.

All hearings are temporarily suspended.

#### Delays/Other Considerations

Any investigations involving personal interviews and face-to-face meetings shall incur delays and, in practice, they are temporarily not taking place, until further notice.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings continue to be made, both in hard copy and electronically, as before, but the CPC's premises are closed to the public, until further notice.

All hearings are temporarily suspended.

## Other Antitrust Issues

### Competitor Collaborations

The European Competition Network ("ECN"), which comprises all the national competition authorities of the European Union and the Directorate-General for Competition of the European Commission, issued a [joint statement](#) on the application of competition law during the present crisis, which stipulates that it shall not intervene against necessary and temporary measures put in place in order to avoid a shortage of supply, such as collaboration between competitors, in order to ensure the supply and fair distribution of scarce products to all consumers. However, the ECN also stipulates that it will not hesitate to take action against companies taking advantage of the current situation by cartelizing or abusing their dominant position, so that it may protect access to essential products intended to protect the health of consumers in the current situation (e.g. face masks and sanitizing gel) by ensuring that they remain available at competitive prices.

### Price Gouging

The Minister of Health has fixed maximum prices for the below products in Euros, inclusive of VAT, until April 30, 2020:

Product	Maximum Wholesale Price	Maximum Retail Price
<b>ANTISEPTICS</b>		
Ane Medic - Antiseptic Gel 300ml	2,38	3,21
Ane Medic - Antiseptic Gel 1L	7,14	9,64
Bienclair – Antiseptic spray 100ml	3,07	3,70
Bienclair – Antiseptic spray 500ml	6,40	7,70
Fami Sanitizing Hand Gel, 80ml	2,38	3,21
<b>MASKS</b>		
Simple surgical masks	27,37/50 pieces	0,70/piece

## Misleading Advertising

The regulatory authority (Consumer Protection Service) has not yet made any pertinent announcement in relation to this. However, the Minister of Health has announced that the Ministry is coordinating with other government departments to address the issue of false and misleading advertising related to products to prevent the virus.

## Enforcement Priorities

No pertinent announcements have been made indicating a change in enforcement priorities.

## Other Considerations

N/A

## Czech Republic

## PRK Partners

**Radan Kubr**

[Radan.kubr@prkpartners.com](mailto:Radan.kubr@prkpartners.com)

Competition Authority: Office for the Protection of Economic Competition (<http://www.uohs.cz/>)

## Merger Review

### New Filings Accepted?

No restrictions announced.

### Waiting Period Delays?

No, but delays are expected.



## Investigations/Litigation

### Filings

No restrictions announced.

### Delays/Other Considerations

See below (Communications with the Regulator).

## Communications With the Regulator

### How are filings made/meetings handled?

According to its statements dated March 17 and 26, 2020, no in-person meetings are to take place. The Office is to be contacted primarily by electronic means or by mail. As regards file inspections, according to the statement of the Office dated March 26, 2020, the Office will make files or their relevant parts (except for those parts of the file that are confidential) available by data box (Czech electronic platform for communication with authorities). This is based on the express consent of the party requiring access to the file. If this is not technically feasible or the party requiring access does not give such consent, the Office will make the file or its relevant part available on a flash disk which will be available for collection at the Office. Those parts of the file that cannot be copied or from which no extracts can be taken cannot be made available during the crisis (and no decisions on the merits can therefore be issued if those parts are necessary to adduce evidence).

## Other Antitrust Issues

### Competitor Collaborations

The Office released a statement on April 9, 2020 acknowledging that competitors may need to cooperate on a temporary basis to secure certain types of goods and services in connection with the COVID-19 pandemic. Upon request, the Office will issue comfort letters during the next six months, and pledges to use its best efforts to respond to such requests within a few working days.

### Price Gouging

The Ministry of Finance of the Czech Republic has set maximum sales prices for FFP3 protective gear sold to the Czech Republic, its organizational units and suppliers.

### Misleading Advertising

No particular measures have been adopted in that respect to date.

## Enforcement Priorities

In its statement dated March 27, 2020, the Office has made it clear that it will continue closely monitoring the market and that hard core cartels and prohibited foreclosure practices by dominant competitors related to critical goods and services in those times of crisis (food, energy, pharmaceuticals etc.) will be focused on and prosecuted. In particular, the Office has warned against prohibited price-related agreements, market sharing, limiting production, bid rigging and abuse of dominance by dominant players involving excessive pricing (in particular as regards goods and services which are in scarce supply) and foreclosing practices excluding competitors from the market.

## Other Considerations

The Office is considering various other options, including introducing longer deadlines to pay fines.

## Denmark

### Kromann Reumert

**Mads Reinholdt Sørensen**  
[msn@kromannreumert.com](mailto:msn@kromannreumert.com)

**Jens Munk Plum**  
[jmp@kromannreumert.com](mailto:jmp@kromannreumert.com)

#### Competition Authority:

- Danish Competition and Consumer Authority (<https://www.en.kfst.dk/>)
- Danish Competition Council, which is a department under the Danish Competition and Consumer Authority (<https://www.en.kfst.dk/>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

Yes, the Danish Competition and Consumer Authority has suspended their time limits for processing of merger control until May 10, 2020.

## Investigations/Litigation

### Filings

Filings are made electronically - which is not specific to the COVID-19 outbreak.

### Delays/Other Considerations

The Danish Competition and Consumer Authority encourages companies wishing to merge to contact the agency well in advance. The agency works to ensure that normal deadlines are met as far as possible.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings are made electronically, and meetings are mostly held by telephone or other electronic devices. However, physical meetings are held, if the circumstances allow it. The COVID-19 outbreak does not seem to slow down the process significantly.

## Other Antitrust Issues

### Competitor Collaborations

The Danish Competition Council has [announced](#), that they recognize, that companies might need to cooperate to limit the adverse effects of the economic downturn and to ensure consumer protection and supply. Therefore, a temporary and necessary cooperation, that does not go beyond what is required to achieve the objective, can be permitted under the competition rules.

This type of cooperation entails efficiencies for consumers that exceed the negative effects arising from the possible restriction of competition, therefore the cooperation may be permitted under the competition rules.

### Price Gouging

The Authority will increase its focus on dominant firms, that raise prices on essential products unreasonably. Thus, the Authority will be targeting such cases.

The Authority allows companies to set maximum prices on their products, which ensures, that retailers will not take advantage of the situation and raise prices to an unreasonable level.

# Europe

## Misleading Advertising

The Danish Environmental Protection Agency has increased its focus on advertising and sales of hand sanitizers, since some companies have advertised and sold hand sanitizers, which did not function properly.

## Enforcement Priorities

The Danish Competition and Consumer Authority will not actively pursue cases of necessary and temporary cooperation. The Authority notes, that in its prioritization of cases it will consider whether there are any such considerations, which are worthy of protection, and whether there has in fact been "no other way around".

## Other Considerations

The Danish Competition and Consumer Authority states, that companies and other operators can contact the Authority and receive informal guidance about how to maneuver without conflicting with the rules. Thus, to a certain extent, the Authority provides informal guidance on the competition rules, which may be a big advantage for companies venturing into crisis cooperation to limit the adverse effects of the crisis.

## Estonia

### COBALT Law Firm

**Elo Tamm**

[elo.tamm@cobalt.legal](mailto:elo.tamm@cobalt.legal)

Competition Authority: Estonian Competition Authority (the "ECA") (<https://www.konkurentsiamet.ee/en>)

### Merger Review

#### New Filings Accepted?

Yes.

## Waiting Period Delays?

No indication of delays currently.

## Investigations/Litigation

### Filings

New filings are accepted. The ECA is working remotely and thanks to Estonian e-governance and digital solutions the work on filings is progressing more or less as usual.

### Delays/Other Considerations

The ECA remains in operation by remote work. Conducting physical witness interrogation procedures may be more difficult to arrange, so possibly the ECA is currently focusing on other aspects of the procedures but are not excluding physical witness interrogations as well.

## Communications With the Regulator

### How are filings made/meetings handled?

Physical premises have been closed to the public as of March 13, 2020 until further notice. Filings can be made by e-mail/with electronic signatures which has been the standard way of submission of filings also prior to COVID-19 outbreak).

Meetings are conducted by phone and video conferences if possible. Physical meetings are avoided if possible, but not excluded.

## Other Antitrust Issues

### Competitor Collaborations

The ECA published a [joint statement](#) made by the European Competition Network on the application of competition law during the Corona crisis on April 23, 2020, which states that the national competition authorities will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply.

The ECA elaborated that the current aim is not to prevent co-operation between competitors that need to overcome supply difficulties or similar problems caused by the crisis. However, the ECA will not hesitate to act against companies taking advantage of the current situation by cartelizing or abusing their dominant position.



If companies have doubts about compliance of such cooperation initiatives with competition law, the ECA encourages companies to contact it so it can assess such cooperation as a matter of urgency and, if necessary, develop suitable solutions in collaboration with the companies.

## Price Gouging

There have not been any COVID-19 specific additional powers to the ECA. In addition to its powers as a competition regulator, the ECA acts on a regular basis as a sector regulator for the energy, water, post and railway industries and has regular price regulator powers in relation in these sectors.

## Misleading Advertising

N/A, as this is not in the competence of the ECA.

## Enforcement Priorities

Based on unofficial contacts, the ECA is ready to handle any COVID-19 related requests of the undertakings. Other than this, the ECA will continue work as normal. The ECA has not in general published its enforcement priorities.

## Other Considerations

Since the physical premises of the ECA have been closed to the public as of March 13, 2020 until further notice, the ECA has asked to be contacted by e-mail or telephone.

## Finland

### Roschier, Attorneys Ltd.

**Ami Paanajärvi**  
[ami.paanajarvi@roschier.com](mailto:ami.paanajarvi@roschier.com)

**Christian Wik**  
[christian@roschier.com](mailto:christian@roschier.com)

Competition Authority: Finnish Competition and Consumer Authority Market Court (<https://www.kkv.fi/en/>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

Not officially, but the FCCA has warned parties that they should prepare for the eventuality of delays. Parties preparing filings are requested to be in contact with the FCCA Merger Control Unit as early as possible. Parties are encouraged to delay filing if feasible. The FCCA's registry is open but all filings are requested to be made electronically. Any submission of a filing (or related materials) is requested to be agreed on in advance.

#### Investigations/Litigation

##### Filings

Yes, all filings have been requested electronically.

##### Delays/Other Considerations

Delays are envisaged but already fixed or judicial procedural deadlines are not affected.

#### Communications With the Regulator

##### How are filings made/meetings handled?

The FCCA has effectively closed its offices and is conducting all communications and meetings digitally.

The Market Court is still open but physical hearings are not taking place. In urgent matters, hearings may take place by videoconference.

## Other Antitrust Issues

### Competitor Collaborations

The FCCA issued [a statement](#) on March 23, 2020, noting that the FCCA will take into account the exceptional circumstances caused by the coronavirus when applying the Competition Act. The FCCA noted in particular that "*companies may need to work together to ensure adequate supply or the equal distribution of products to all consumers*" and that the "*FCCA will not intervene in measures that are necessary to ensure the sufficient availability of products.*" Companies considering such necessary measures, are encouraged to contact the FCCA. On the other hand, the FCCA has made it clear that they will be adamant in enforcing of the cartel rules and abuse of dominance restrictions, despite the current circumstances. The FCCA has also underlined that it will comply with the [policy](#) outlined by the European Competition Network.

On April 9, 2020 the FCCA followed up with a more detailed [statement](#), covering in particular co-operation in the supply of medical products and protective gear. The FCCA underlined that it will not, in principle, stand in the way of such cooperation under the antitrust rules. Moreover, the FCCA noted that exceptional circumstances may warrant the rules on direct procurements under the Public Procurement Act to be relaxed as well as the rules on competition neutrality.

### Price Gouging

No particular statements as of yet, but the FCCA has made it clear that "Even during the state of emergency, the FCCA will resolutely intervene in cartels between companies, which aim to raise prices to the detriment of consumers. The same will apply to abuse of a dominant position, which a company uses to exclude competitors from the market or to charge manifestly unfair prices."

### Misleading Advertising

The FCCA has on March 30, 2020 made [a statement](#) regarding the policing of coronavirus bred scams and misleading marketing.

### Enforcement Priorities

The FCCA has made it clear that it will accommodate pro-competitive collaborations to support delivery of goods and services, particularly for the purposes of supply of medical products and that the FCCA will take a circumstances-specific approach to enforcement.

### Other Considerations

N/A

## France

### Gide Loyrette Nouel A.A.R.P.I.

Laurent Godfroid

[godfroid@gide.com](mailto:godfroid@gide.com)

Competition Authority: Autorité de la concurrence (<https://www.autoritedelaconcurrence.fr/en>)

#### Merger Review

##### New Filings Accepted?

Yes - However, the French Competition Authority (“FCA”) invites undertakings to postpone any proposed economic concentration which is not urgent.

##### Waiting Period Delays?

Pursuant to Order No. 2020-306 of March 25, 2020, **the legal and regulatory time limits for the examination of mergers are suspended from 12 March 2020 until the end of the one-month period after the end of the state of public health emergency.**

However, the order does not prevent the adoption of an act or the execution of a formality whose term expires within the period in question: it does allow to consider as not tainted with illegality the act carried out within the additional time allowed.

The FCA's position on this point is to make its best efforts to deliver its decisions and opinions within the normal time limits, without waiting for the expiry of the additional time limits foreseen by these provisions. This position concerns above all cases considered to be simple, i.e. those which can be settled by a Phase I decision and which do not require a market test, the response rate of which would be compromised by the urgency period.

In addition, the deadlines for the implementation of remedies are therefore suspended or postponed until one month after the end of the state of health emergency.

## Investigations/Litigation

### Filings

Investigation services of the FCA continue to work, complaints and other procedural documents can still be submitted, subject to the exceptional measures below (extension of time limits and electronic submissions only).

### Delays/Other Considerations

Extension of time limits for the submission of observations in response to a statement of objections or final report: the Rapporteur-General has decided that the two-month period available to companies to submit, pursuant to Article L. 463-2 of the French Commercial Code, their observations in response to a statement of objections or a final report is suspended as of 17 March 2020. This period will resume as from the day after the publication of the decree lifting the lockdown measures initially instituted by Decree no 2020-260 of March 16, 2020.

The deadlines already granted in the context of leniency procedures are suspended as of March 17, 2020 and will resume when the lockdown measures are lifted.

The deadlines for the implementation of commitments, injunctions or interim measures are suspended or postponed until the end of a period of one month following the end of the state of health emergency.

The acts or decisions referred to in Article L. 462-7 of the French Commercial Code that should have been taken in the period between March 12, 2020 and the expiry of a period of the one month period following the end of the state of health emergency, in order to avoid the prescription of action by the FCA, may be taken within two months from the end of this period, without being considered as prescribed.

Similarly, appeals against decisions of the FCA, which should have been filed in the period between March 12, and the expiry of one month following the end of the state of health emergency, in accordance with the time limits provided for in Articles L. 464-7, L. 464-8 and L. 464-8-1 of the French Commercial Code, may be filed within two months from the end of this period, without being considered prescribed.

## Communications With the Regulator

### How are filings made/meetings handled?

The premises of the French Competition Authority closed on March 17, 2020 at 11 a.m. and the services have been working remotely since that day. Consequently, deliveries of documents in physical form, by hand or by post are no longer possible.



Regarding merger filings, companies are invited to communicate any notification or document exclusively by electronic means to the email address of the mergers unit: [controle.concentrations@autoritedelaconurrence.fr](mailto:controle.concentrations@autoritedelaconurrence.fr) or by using the online notification platform (for eligible operations).

The Competition Authority's website states that the delivery of master copies documents will be arranged later.

Regarding antitrust investigations, given the exceptional circumstances, throughout the duration of the lockdown measures, and by derogation to the provisions of Articles R. 463-1, R. 463-11, R. 463-13, R. 463-15 and R. 464-30 of the French Commercial Code, complaints, observations in response to a statement of objections or a final report, requests for confidential treatment or requests for the lifting of confidential treatment are

to be submitted electronically to the FCA, which will acknowledge receipt, at the following electronic address: [L-  
PROCEDURE@autoritedelaconurrence.fr](mailto:PROCEDURE@autoritedelaconurrence.fr).

Similarly, statements of objections, measures to lift confidential treatment and final decisions of the FCA and the Rapporteur-General will be notified electronically to the persons concerned and to the Government representative.

These electronic transmissions or notifications may be performed by any means: computer messaging, document exchange platform, file transfer application, etc.

Notification of a decision of the FCA that makes time limits for appeal run takes place as usual, by notification through registered mail with acknowledgement of receipt and not when the decision is sent by electronic means. In the light of current practice, the Authority states that its regular registered mail dispatches will not resume until the day after the decree lifting the lockdown measures.

Documents sent to the FCA by registered mail during the health emergency period must be resent by electronic means to the address indicated above.

Regarding leniency applications, until the lockdown measures are lifted, and by derogation from Article R. 464-5 of the French Commercial Code, applications for leniency are to be filed electronically, to the exclusion of any other means of transmission, by sending the form available on the FCA's website, duly filled, to the following address: [clemence@autoritedelaconurrence.fr](mailto:clemence@autoritedelaconurrence.fr).

## Other Antitrust Issues

### Competitor Collaborations

The FCA supports temporary cooperation initiatives between companies and stands ready to assist them.

By way of example, following a report dated March 30, 2020, the FCA had opened an investigation into exclusive import practices likely to be implemented by the Fisher & Paykel Healthcare group active in the supply of respiratory systems and products to hospitals in French Guiana and the French West Indies. Taking note of Fisher & Paykel Healthcare's clarification of the conditions of distribution of its products in these overseas territories with a view to strengthening competition, the Authority closed this investigation on April 6, 2020.

### Price Gouging

It must be noted that in French law, paragraph 3 of Article L. 410-2 of the Commercial Code provides that *'the provisions of the first two paragraphs [relating to freedom of prices] shall not prevent the Government from adopting, by decree in Council of State, against excessive price increases or decreases, temporary measures motivated by a crisis situation, exceptional circumstances, a public calamity or a manifestly abnormal market situation in a given sector'*.

In order to meet demand and combat the sharp increase in the selling prices of hydro-alcoholic solutions since the outbreak of COVID-19 in France, the French Government has exercised this option, which has rarely been used until now. It has thus published several decrees regulating the prices of these products and extending manufacturing authorizations in order to combat the shortage.

### Misleading Advertising

N/A

### Enforcement Priorities

The FCA indicated that its investigation services were mobilized in the active surveillance of markets during the crisis with a view to reacting effectively against any abusive behavior. The FCA also invites any natural or legal person to notify it in case of suspicion of an anti-competitive practice by using a dedicated electronic address: [signalement.externe@autoritedelaconurrence.fr](mailto:signalement.externe@autoritedelaconurrence.fr).

### Other Considerations

N/A

## Germany

### Noerr LLP

**Fabian Badtke**

[fabian.badtke@noerr.com](mailto:fabian.badtke@noerr.com)

**Karsten Metzlauff**

[karsten.metzlauff@noerr.com](mailto:karsten.metzlauff@noerr.com)

**Peter Stauber**

[peter.stauber@noerr.com](mailto:peter.stauber@noerr.com)

**Alexander Birnstiel**

[alexander.birnstiel@noerr.com](mailto:alexander.birnstiel@noerr.com)

**Jens Peter Schmidt**

[jens.schmidt@noerr.com](mailto:jens.schmidt@noerr.com)

Competition Authority: Bundeskartellamt (Federal Cartel Office – “FCO”) ([https://www.bundeskartellamt.de/EN/Home/home\\_node.html](https://www.bundeskartellamt.de/EN/Home/home_node.html))

### Merger Review

#### New Filings Accepted?

Yes. However, in light of COVID-19 and in order to maintain capacities, the FCO asks parties to consider for each case whether filing can be postponed, if possible.

#### Waiting Period Delays?

No. The FCO [stated](#) on March 17, 2020 that its operating capacity is currently ensured until further notice. The FCO has not announced yet that merger control periods will be delayed. The FCO will inform about changes on its [website](#) and on Twitter (@Kartellamt) if necessary.

### Investigations/Litigation

#### Filings

Filings with the competent Higher Regional Court of Düsseldorf still have to be made by the usual means (hard copy letters or electronically by using the special electronic lawyer's mailbox).

## Delays/Other Considerations

- No, with regard to investigations: The FCO [stated](#) on March 17, 2020 that its operating capacity is currently ensured until further notice. The FCO has not announced yet that investigations will be delayed. The FCO will inform about changes on its [website](#) and on Twitter (@Kartellamt) if necessary.
- Yes, with regard to litigation: The competent Higher Regional Court of Düsseldorf [stated](#) on March 16, 2020 that oral hearings will generally be postponed. However, the service of the court will be maintained to the extent necessary. Measures and procedures that cannot be postponed shall be carried out with due caution. Whether oral hearings take place or not will be published on the court's website.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings with the FCO still have to be made by hard copy letters or electronically as described by the FCO on its [website](#). Please note that communication via email is generally only possible for informal contacts. Deadlines can still be kept by using fax in advance.

Besides, the FCO can be contacted via email, phone, fax and by mail as usual. Recently, the FCO has set up [separate email addresses](#) for each of its decision divisions to ensure continued availability of its officials working from home.

Meetings in person are currently not possible. If necessary meetings can be conducted via teleconference. For security reasons the FCO only accepts conference calls via servers based in Germany.

## Other Antitrust Issues

### Competitor Collaborations

The FCO's president Andreas Mundt [explained recently](#) that antitrust law allows for collaboration among competitors if there are "good reasons" due to COVID-19 and if collaboration is temporally limited. Furthermore, the Federal Minister for Economic Affairs and Energy, Peter Altmaier, announced that cooperation in the food industry and among retailers must be possible to ensure the necessary supply of the population. The FCO currently liaises with several companies, associations and politicians about plans for cooperation in production to avoid bottlenecks, including contingency plans in the event that producers fail and cooperation on issues such as warehousing and redistribution between companies to avoid or eliminate supply bottlenecks. This is in line with the FCO's [joint statement](#) with the other European Competition Authorities of March 23, 2020 that European Competition Authorities will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. In case of doubts companies should informally contact the FCO.

## Price Gouging

The FCO's [joint statement](#) with European Competition Authorities of March 23, 2020 explains that products relevant for consumer health (e.g. masks or disinfectants) must be provided for competitive prices. The FCO will therefore closely monitor if companies abuse the current situation by anticompetitive behavior. Against this background the joint statement reminds that manufacturers can set maximum prices which might help to limit unjustified price increase at the distribution level.

## Misleading Advertising

N/A

## Enforcement Priorities

The FCO's president Andreas Mundt stated it will not tolerate conduct by undertakings that opportunistically seek to exploit the crisis as a cover for anti-competitive collusion or abuses of their dominant position.

## Other Considerations

N/A



## Greece

### Zepos & Yannopoulos

**Stamatis Drakakakis**  
[s.drakakakis@zeya.com](mailto:s.drakakakis@zeya.com)

**Stefanos Charaktiniotis**  
[s.charaktiniotis@zeya.com](mailto:s.charaktiniotis@zeya.com)

Competition Authority: Hellenic Competition Commission (“HCC”) (<https://epant.gr/en/>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

As per the HCC’s [press release](#) of March 23, 2020, legally binding deadlines continue to apply to HCC’s work and the HCC will continue to exercise its functions, examine the cases brought before it - including mergers - and make decisions - through remote working. At the same time, it will continue to check timelines, providing, where permissible, extension of deadlines. For instance, HCC cleared (a) on April 21, 2020 the “CRETA FARMS” and its subsidiary “TETO-FARM”/“BELLA BULGARIA” (through subsidiary “IMPALA HELLAS”) concentration, (b) on April 15, 2020 the acquisition of control of doValue S.p.A over Eurobank FPS Loan and Credit Claim Management Company SA and (if doValue S.p.A. exercises the relevant option right) over “REAL ESTATE MANAGEMENT SA”, and (c) on March 27, 2020 two concentrations, the OCEAN and A. Panagopoulos acquiring joint control over PEARL Ltd as well as the change from joint to sole control by the company ANDROMEDA SEAFOOD SOCIEDAD LIMITADA over PERSEUS SPECIALTY FOOD PRODUCTS.

Nevertheless, there is skepticism about merger control deadlines including the implication of no bailiff services due to COVID-19. Our firm was recently engaged in the initiation of Phase II where we came to a common understanding about the servicing of the respective formal act and we also discussed the case where participants in market surveys delay their replies and how this will impact the duration of Phase II. Our firm position was that to the extent that the notifying party is prompt with its answers and data provided, the HCC should just give extended (for few more days) deadlines to third parties but should not stop the clock. Till now there is no official position on this. Equally, as to the deadline issue for Phase I –

where there is more need for the HCC to extend deadlines– no official position has been taken. The HCC has not come out with any similar to DG COMP warning towards undertakings not to proceed to filings if not very urgent; having said that it should be noted that the Greek Competition Law Act provides for a 30 day deadline to notify as of the triggering event/transaction (whereas no deadline exists under Council Regulation (EC) No 139/2004 albeit the mandatory stand still obligation).

## Investigations/Litigation

### Filings

Submission of documents before the HCC by physical presence or post will no longer be possible and undertakings and citizens can only e-file them instead. Submission of documents before most of the Greek Courts is currently unavailable by paper filings and can only occur by e-filing. However, the documents submitted before the Courts for the time being cannot be serviced by means of court bailiff.

### Delays/Other Considerations

The HCC, further to its press release of March 23, 2020, will continue to exercise its enforcement powers by conducting investigation measures including on-site inspections wherever and whenever necessary. However, in practice, ongoing cases demanding the on-site unsealing of electronic files gathered during on-site investigations are likely to be suspended until the lifting of the urgent measures currently in place.

At the same time HCC initiated on March 11, 2020 a new sector inquiry into e-commerce for which the public consultation was launched on March 31, 2020. A second sector inquiry is ongoing into production, distribution and marketing of basic consumer goods of 11 product categories in total and in particular food products, cleaning and personal hygiene products; the HCC completed and published on April 13, 2020 the Interim Report regarding this sector inquiry.

With regard to potential sanctions to be imposed in imminent antitrust decisions, our firm has noted to the HCC that they should be inspired by the Italian NCA (see Telecom Italia abuse of dominance case) and explicitly defer the payment of fines. Till today the HCC has refused to interfere with the modalities of payment (arguing that this is an issue for the Tax Authorities collecting the respective fines).

## Communications With the Regulator

### How are filings made/meetings handled?

Filings to the HCC may be made electronically. The HCC, further to its press release of March 23, 2020 applies a working from home / teleworking regime with just some minimum resources at the premises. The Plenary of the HCC will hold scheduled meetings and conferences via a teleconference platform after user authentication.

## Other Antitrust Issues

### Competitor Collaborations

The HCC released a [statement](#) on March 23, 2020 declaring its support to all economic operators and transmitting the joint statement on behalf of the European Commission and the European Competition Network (ECN) which addressed key considerations related to competition law

enforcement during and after the COVID-19 pandemic; recognizing the ability of NCAs to not intervene against good faith efforts and limited collaborations among competitors in order to provide needed goods and services, while urging member NCAs to remain vigilant to anti-competitive conduct.

Nevertheless, in its related [announcement](#) following an unannounced on-site inspection at the premises of undertakings active in the food industry - available only in Greek), the HCC made clear that it will strictly prioritize the examination of any cartel-like activity brought to its attention, whether following a complaint, an application for leniency by a cartel participant or otherwise and will impose heavy administrative sanctions on the undertakings engaging in such anti-competitive practices.

### Price Gouging

The HCC published a [press release](#) on March 16, 2020 as regards vertical restraints, announcing that it will focus on hardcore vertical restraints, such as resale price maintenance (RPM), setting fixed or minimum resale prices, in view of supply-demand upset caused by the pandemic.

### Misleading Advertising

The HCC has not published any relevant press release and will not focus on this matter.

### Enforcement Priorities

The HCC issued on April 15, 2020 a [press release](#) regarding “Actions taken by the HCC in the context of the enforcement of competition rules in special economic and social conditions” pointing out three actions: (a) food industry: upon HCC’s instructions the Directorate-General for Competition and the Prefecture concerned carried out an immediate unannounced on-site inspection at the premises of undertakings active in the food industry and issued a relevant Announcement ; (b) ex officio investigations mainly on food products: the HCC decided to initiate ex officio investigations in sectors where there were signs raising competition concerns in companies active throughout the product value chain, mainly for food products (ex, animal feed, cereals, milk, eggs and chicken) and may extend its investigations also to other sectors; and (c) healthcare material: the filling in of questionnaires and the submission of invoices and other material through a special online form, pursuant to the preliminary

investigation initiated by the HCC, following complaints from consumers and media reports on price increases and shortages in healthcare materials, have been completed. The HCC has investigated more than 3,500 companies active in the production, import and marketing of

healthcare materials in order to decide whether the conditions required for launching an ex officio investigation to find any antitrust violations are in place.

### Other Considerations

The HCC, on March 20, 2020 set up a Covid-19\_Competition [Task Force](#). Its task is to provide businesses and citizens with information about the application of competition rules in the form of announcements and Q&As, inform the public about the investigations carried out by the HCC in

currently crucial business sectors and the HCC's procedural matters in the present context as well as post the actions of other NCAs and the European Commission on its website.

## Hungary

### Nagy és Trócsányi

**Peter Berethalmi**  
[berethalmi.peter@nt.hu](mailto:berethalmi.peter@nt.hu)

**Denisz Dobos**  
[dobos.denisz@nt.hu](mailto:dobos.denisz@nt.hu)

Competition Authority: Hungarian Competition Authority (hereinafter: the "HCA") (<https://www.gvh.hu/>)

### Merger Review

#### New Filings Accepted?

Yes.

## Merger Review

### New Filings Accepted?

Yes.

### Waiting Period Delays?

No, however, undertakings are requested to consider postponing the notification of their proposed merger and to take into account that it is expected that the HCA will face difficulties in collecting information in the upcoming weeks if it is necessary to contact third parties (e.g. competitors, suppliers) in relation to the transaction.

## Investigations/Litigation

### Filings

In view of the epidemiological situation, during this period of time, the primary mode of communication / filings shall be made through electronic means. The HCA asks the parties to submit the merger notification form electronically by completing the online notification form (iForm) which is available on the HCA's webpage.

Personal delivery of documents addressed to the Competition Council is suspended due to the risks of personal contact. The processing of filings submitted via the official portal of the HCA is ensured.

With regard to the final and binding decisions of the HCA, administrative lawsuits shall be initiated by filing a statement of claim electronically by using the relevant form available on the HCA's webpage. In general, the state of emergency has no effect on the passing of deadlines in the administrative lawsuits.

### Delays/Other Considerations

Customer service-related activities of the HCA are temporarily suspended. All sections of the HCA and the case handlers shall be contacted via e-mail. During the period of the state of emergency, the Competition Council will hold any hearings by teleconference if holding a hearing is requested by the undertakings concerned.



## Communications With the Regulator

### How are filings made/meetings handled?

Customer service-related activities of the HCA are temporarily suspended and the primary mode of communication/filings shall be made through electronic means. All sections of the HCA and the case handlers shall be contacted via e-mail. Personal delivery of documents addressed to the Competition Council is suspended. The processing of filings submitted via the official portal of the HCA and the availability of the Competition Council's Secretariat through e-mail (vt-titkarsag@gvh.hu) are ensured.

During the period of the state of emergency, the Competition Council will hold any hearings by teleconference if holding a hearing is requested by the undertakings concerned.

## Other Antitrust Issues

### Competitor Collaborations

The European Competition Network (of which the HCA is also a member) (hereinafter the "ECN") released a [joint statement](#) on March 23, 2020 (i) recognizing that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers, and (ii) declaring that the ECN will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. The ECN also stated that considering the current circumstances, such measures are unlikely to be problematic, since they would either not amount to a restriction of competition under Article 101 TFEU/53 EEA or generate efficiencies that would most likely outweigh any such restriction.

If companies have doubts about the compatibility of such cooperation initiatives with EU/EEA competition law, they can reach out to the Commission, the EFTA Surveillance Authority or the national competition authority concerned (e.g. the HCA) any time for informal guidance.

### Price Gouging

According to the ECN's [joint statement](#), it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current situation (e.g. face masks and sanitizing gel) remain available at competitive prices. The ECN will therefore not hesitate to take action against companies taking advantage of the current situation by cartelizing or abusing their dominant position. In this context, the ECN also pointed

out that the existing rules allow manufacturers to set maximum prices for their products which could prove useful to limit unjustified price increase at the distribution level.

## Europe

### Misleading Advertising

The HCA actively monitors advertisements containing false and/or misleading claims related to COVID-19. In this regard, the HCA has already (i) published an [information guide](#) for both the consumers and advertisers, (ii) summarized the [findings](#) of its investigation of online advertisements of certain products claiming unproven anti-coronavirus effects, and (iii) [initiated investigation](#) against certain advertisers.

### Enforcement Priorities

It is likely that during the state of emergency, the HCA's enforcement priority will be the investigation of anti-competitive conducts related to COVID-19. This was also confirmed by the newly appointed president of the HCA, Mr. Csaba Balázs Rigó, who also emphasized that the HCA will continue vigorously monitoring unfair commercial practices, cartels and abuses of dominant positions.

### Other Considerations

Consumer complaints related to COVID-19 can be submitted to the HCA via the following e-mail address: [covid19konzultacio@gvh.hu](mailto:covid19konzultacio@gvh.hu).

## Iceland

### LOGOS Legal Services

**Gunnar Sturluson**  
[gunnar@logos.is](mailto:gunnar@logos.is)

**Helga Melkorka Óttarsdóttir**  
[helga@logos.is](mailto:helga@logos.is)

**Halldór Brynjar Halldórsson**  
[halldorbrynjar@logos.is](mailto:halldorbrynjar@logos.is)

Competition Authority: Competition Authority (The "ICA") (<https://en.samkeppni.is/>)

### Merger Review

#### New Filings Accepted?

Yes, but worth noting that the ICA has requested that merger notifications which need not be expedited because of COVID-19, are asked to be delayed while the pandemic is at its peak.

## Waiting Period Delays?

The ICA has stated that they are conscious of the importance of expediting merger investigations during crises and it will endeavor to do so in the current economic

They have however stated that they will prioritize cases that are relevant to the response to COVID-19 and will accordingly have to delay the procedures of some other cases and reconsider their applicability. It is thus foreseeable that the waiting period could be increased in certain cases.

## Investigations/Litigation

### Filings

The ICA has requested that all letters and documents are delivered electronically, i.e. via email. There is however no electronic filing system.

### Delays/Other Considerations

As per above, the ICA will have to delay the procedures of some cases and reconsider their applicability and has requested that parties which are planning to send complaints or merger notifications to the ICA, which need not be expedited because of COVID-19, delay such notifications while the pandemic is at its peak.

## Communications With the Regulator

### How are filings made/meetings handled?

The ICA has requested that all letters and documents are delivered electronically, i.e. via email. No meetings are held at the ICA premises, unless absolutely necessary. Online conferences are held instead.

## Other Antitrust Issues

### Competitor Collaborations

The ICA has granted several exemptions on the account of COVID-19, and has in that regard emphasized that:

- sector regulators on the relevant market are given access to the cooperation between competitors. As a result, the regulators are able to monitor competitor cooperation and provided with an overview of the COVID-19 response on the market.
- Applications for exemptions concerning the COVID-19 will be processed by the ICA in less than 48 hours from the receipt of the application.

The ICA has, as of March 30, 2020 granted several such exemptions, concerning e.g. travel agencies, smaller pharmacies, and lenders.

## Price Gouging

The ICA considers it extremely important to ensure that products considered essential to protect the health of consumers (e.g. face masks and sanitizing gel) remain available at competitive prices, and has invited consumers, undertakings and the public sector to report to the ICA all indications of unreasonable increases in prices.

## Misleading Advertising

The Consumer Authority is responsible for possible infringements regarding misleading advertising. However, they have not provided any specific guidelines concerning COVID-19.

## Enforcement Priorities

The ICA has provided that they will prioritize cases that are relevant to the response to COVID-19.

## Other Considerations

N/A

## Ireland

### Arthur Cox

**Richard Ryan**

[richard.ryan@arthurcox.com](mailto:richard.ryan@arthurcox.com)

**Patrick Horan**

[patrick.horan@arthurcox.com](mailto:patrick.horan@arthurcox.com)

Competition Authority: Competition and Consumer Protection Commission (“CCPC”) (<https://www.ccpc.ie/>)

### Merger Review

#### New Filings Accepted?

Yes. However, on March 18, 2020, the CCPC published a statement on its website outlining that it is “*encouraging notifying parties where possible to delay filing planned merger notifications until further notice*” and provided details of a temporary process for the electronic notification of mergers.

#### Waiting Period Delays?

The CCPC has confirmed that it will now largely be reviewing notified mergers and acquisitions remotely which will make the effective collection and assessment of information during the merger review process very difficult. This has not yet led to significant delays in practice but the position continues to be monitored.

### Investigations/Litigation

#### Filings

The CCPC has not published any guidance on how the COVID-19 outbreak will affect ongoing investigations or its approach to prioritizing new enforcement cases. In Ireland, civil competition cases (including enforcement and follow-on actions) are heard predominantly before the High Court. In response to the COVID-19 outbreak, the Courts Service of Ireland has scaled back the operation of the Courts. The focus is now on dealing only with urgent cases and finishing proceedings already at hearing.



## Delays/Other Considerations

Measures taken by the Courts Service to scale back the work of the Courts and decrease the numbers needed in Court, such as the introduction of ICT infrastructure to facilitate remote court hearings, may lead to delays, particularly in non-urgent cases.

## Communications With the Regulator

### How are filings made/meetings handled?

In relation to merger control, the CCPC has expressed a preference for digital notifications. As of March 18, 2020, the CCPC has requested that merger notification forms and all supporting documents required by the CCPC be submitted in electronic format. No guidance has been issued on how meetings will be handled but it is likely that all meetings will be conducted remotely, including in relation to both merger and antitrust cases.

## Other Antitrust Issues

### Competitor Collaborations

On March 23, 2020, the European Competition Network (“ECN”) (a network of the Directorate General for Competition of the European Commission and the 27 national competition authorities across the EU, including the CCPC) issued a joint statement clarifying how competition rules apply in the context of the crisis. In its joint statement, the ECN acknowledged that *“this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers”* and further states that *“in the current circumstances, the ECN will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. On March 25, 2020, the CCPC published the ECN joint statement on its website, signaling that it will approach competition enforcement in the context of the crisis in line with the principles set out in the joint statement. If companies have doubts about the compatibility of such cooperation initiatives with EU competition law, the ECN joint statement noted that they can reach out to the European Commission or their national competition authority for guidance.*

### Price Gouging

There have been no specific measures taken at a national level but in the ECN joint statement, referenced above, the ECN warns that action will be taken against companies that take advantage of the current circumstances. It states that *“it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current situation (e.g. face masks and sanitizing gel) remain available at competitive prices. The ECN will therefore not hesitate to take action against companies taking advantage of the current situation by cartelizing or abusing their dominant position.”*

## Misleading Advertising

On March 20, 2020, the CCPC published a statement on its website reminding businesses that consumer protection law requirements remain in force during the COVID-19 outbreak. The CCPC said that it has been actively monitoring compliance with current consumer protection law requirements, including commercial practices which are misleading to consumers, such as making a representation that a product is able to cure an illness when it cannot.

The CCPC stated that it is monitoring websites and where it identifies issues, it will take appropriate action to protect consumers. The CCPC also encouraged any consumer that encounters misleading practices or experiences difficulties with any online trader offering health products for sale to contact the CCPC so they can advise them of their rights.

## Enforcement Priorities

During the outbreak, the focus is on ensuring essential goods and services remain available at competitive prices. As regards cooperation between businesses, the ECN joint statement clarifies that the ECN will use existing mechanisms, and in particular the efficiency conditions, to take account of the current circumstances in deciding whether to take enforcement action. The ECN's view is that "necessary and temporary measures put in place in order to avoid a shortage of supply" are unlikely to be problematic in the current circumstances as they would either not amount to a restriction of competition or would generate efficiencies that would outweigh any restriction of competition.

## Other Considerations

N/A

## Italy

### Chiomenti

**Cristoforo Osti**

[cristoforo.osti@chiomenti.net](mailto:cristoforo.osti@chiomenti.net)

**Caterina Migani**

[caterina.migani@chiomenti.net](mailto:caterina.migani@chiomenti.net)

**Antonino Cutrupi**

[antonino.cutrupi@chiomenti.net](mailto:antonino.cutrupi@chiomenti.net)

Competition Authority: Italian Competition Authority (“ICA” or “Authority”) (<https://en.agcm.it/en/>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

Yes. All the deadlines are suspended from February 23 until May 15, 2020 (subject to certain exceptions). The clock will restart on May 16, 2020. (This as of now. A further delay cannot be ruled out).

Parties engaged in complex mergers are encouraged to contact the Authority’s relevant directorates.

#### Investigations/Litigation

##### Filings

Yes.

##### Delays/Other Considerations

Civil and administrative proceedings/deadlines are suspended until May 12 and 15, respectively.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings are to be made electronically. Typical 'physical' tasks such as access to the proceedings' file are also starting to be fulfilled electronically.

Courts may adopt special measures to carry out proceedings and court activities.

## Other Antitrust Issues

### Competitor Collaborations

The ICA has neither released any autonomous statement regarding competitor collaborations nor opened any relevant case.

However, the ICA is a member of the European Competition Network (ECN) which, on March 23, 2020, published a [joint statement](#) on the application of competition law during Corona crisis (the "ECN Joint Statement"), according to which the ECN will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply, as such measures are unlikely to be problematic in light of the current circumstances.

### Price Gouging

According to the ECN Joint Statement, the ECN will not hesitate to take actions against price gouging of products considered essential to protect the health of consumers in the current situation (e.g., face masks and sanitizing gel); in this respect, the ECN Joint Statement points out that existing rules allow manufacturers to set maximum prices for their products, which could prove useful to limit unjustified price increase at the distribution level.

At the Italian level, in March and April 2020 the ICA opened several proceedings for unfair commercial practices, some of which concerning also alleged price gouging re face masks and sanitizing gel sold online (see the relevant opening decisions in the proceedings [PS11736](#), [PS11734](#), [PS11716](#), and [PS11717](#)).

### Misleading Advertising

In March and April 2020 the ICA opened some proceedings regarding alleged misleading and aggressive advertising on the web of products presented as effective against the COVID-19 (see the relevant opening decisions in the proceedings [PS11734](#), [PS11732](#), [PS11733](#), [PS11735](#), [PS11727](#), [PS11722](#), [PS11723](#)) and of face masks different from those advertised online (in terms of quality, certifications, origin and delivery timing – see [PS11736](#)).

## Enforcement Priorities

The ICA has not clarified specific enforcement priorities, apart from its general willingness to continue to monitor the market focusing its attention on operators active in e-commerce who adopt unfair and misleading behavior.

## Other Considerations

In many of the mentioned cases, the ICA provisionally ordered the immediate end of the conduct and sometimes even the darkening of the related e-commerce site. Furthermore, in [one case](#), the ICA also invited major search engines to remove from the results page any websites that market a drug deceptively advertised as effective against COVID-19.

Further to price gouging and misleading advertising, in March 2020 the ICA opened a [proceeding](#) for unfair commercial practices against a platform through which funds can be raised for charitable purposes. Allegedly, such platform applied fees associated with credit and debit card transactions and pre-set an optional commission at a value equal to a percentage share of the donated amount.

In April 2020, the Authority - following to the complaint of a medical association - sent a [request for information](#) to a company which allegedly used unfair methods in promoting on its website free consultancy for damages suffered due to COVID-19.



## Jersey and Guernsey

### Mourant

**Carla Benest (Jersey)**

[carla.benest@mourant.com](mailto:carla.benest@mourant.com)

**Helen Wyatt (Guernsey)**

[helen.wyatt@mourant.com](mailto:helen.wyatt@mourant.com)

Competition Authority: Channel Islands Competition and Regulatory Authority (CICRA) (<http://www.cicra.gg/>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

No – CICRA are still turning merger filings around within the 25 day administrative target.

### Investigations/Litigation

#### Filings

It is business as usual to the extent that investigations can be undertaken remotely – CICRA will ask for electronic submissions and do any hearings by video conference if necessary.

#### Delays/Other Considerations

N/A

### Communications With the Regulator

#### How are filings made/meetings handled?

Pre-notification discussions will be undertaken by telephone/video conference. Filings will be submitted electronically (as always) and any meetings that need to take place between CICRA and the parties to discuss a filing will also take place via telephone/video call.

## Other Antitrust Issues

### Competitor Collaborations

CICRA issued a media release on April 6, 2020 on its approach to competition law enforcement during the Coronavirus pandemic.

CICRA is also very conscious of concerns that competition law enforcement could impede necessary cooperation between businesses to deal with the current crisis and ensure security of supplies of essential products and services, such as groceries. Where agreements are not covered by legal

relaxation, CICRA has confirmed that it has no intention of taking competition law enforcement action against cooperation between businesses or rationing of products to the extent that this is necessary to protect consumers – for example, by ensuring security of supplies. At the same time, CICRA does note that this is not a license for businesses to exploit the crisis as a ‘cover’ for non-essential collusion. This includes exchanging information on longer-term pricing or business strategies, where this is not necessary to meet the needs of the current situation.

### Price Gouging

No specific guidance, actions or orders about price gouging yet. CICRA is keeping an eye on this and is in contact with both Jersey and Guernsey governments on specific queries.

### Misleading Advertising

Misleading advertising is dealt with by the UK Advertising Standards Authority (“ASA”). There are no specific plans to co-ordinate action between ASA and CICRA yet but CICRA is clear that businesses should not be attempting to exploit the current situation and it will take action, within the scope of its powers and in the usual way, if it becomes aware of it.

### Enforcement Priorities

For CICRA, the priority through the coming months is to maintain support for consumers and businesses through the powers and functions assigned to it. It recognizes that the challenges of the coronavirus are considerable with potentially far reaching and long-term consequences for consumers as well as smaller businesses who are often a significant source of competition and choice. Given this, greater priority will be given to those aspects of its work program that best secure the long-term interests of consumers and sustainable competition. CICRA will however be more flexible in its approach, sensitive to the demands placed on businesses at this time. Parties directly affected by changes to its approach will be contacted and informed if, for example, consultations are suspended or deadlines extended.

CICRA's approach to enforcement will be pragmatic during this time. Compliance with regulatory obligations continues to be important. However, CICRA recognizes that the impact of the coronavirus means that it will not always be possible to meet these obligations. In such circumstances, industry should take decisions that support critical services, vulnerable people and those who are relying on communications services. CICRA will support those decisions where they are in the interests of consumers and businesses.

## Other Considerations

N/A

## Latvia

### Ellex Klavins

**Liga Merwin**

[Liga.merwin@ellex.lv](mailto:Liga.merwin@ellex.lv)

**Martins Gailis**

[Martins.gailis@ellex.lv](mailto:Martins.gailis@ellex.lv)

Competition Authority: Konkurences padome (Competition Council) (<https://www.kp.gov.lv/en>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

No, the Competition Council is observing the normal timelines for merger review and has not indicated that any delays might be expected. Furthermore, Latvian merger control rules do not provide for a suspension requirement – closing before clearance is permissible.

## Investigations/Litigation

### Filings

Although paper filings are still accepted, the Competition Council encourages parties to do filings electronically – sent via e-mail where the relevant documents are signed with e-signature.

### Delays/Other Considerations

The Competition Council has not indicated that there might be delays in any investigations. However, pursuant to a new law on the operation of state authorities during the emergency situation related to COVID-19, state authorities, including the Competition Council, can extend the term for adopting decisions by up to 2 months after the end of the emergency situation.

In relation to litigation, court proceedings are ongoing and have not been suspended, but oral hearings in competition law cases are likely to be postponed (as oral hearings are only held in cases with objective urgency).

## Communications With the Regulator

### How are filings made/meetings handled?

Filings to the Competition Council are encouraged to be made electronically, where documents are signed with e-signature.

The Competition Council remains in operation and the premises are open, albeit a significant portion of the officials work from home. In-person meetings are strongly discouraged.

## Other Antitrust Issues

### Competitor Collaborations

On March 23, 2020 the Competition Council published the ECN joint statement on the application of competition law during the COVID-19 crisis. According to the statement the authorities understand that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers, thus the authorities will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. The statement also notes that such measures are unlikely to be problematic, since they would either not amount to a restriction of competition under Article 101 TFEU or generate efficiencies that would most likely outweigh any such restriction. If companies have doubts about the compatibility of such cooperation initiatives with EU competition law, they can reach out to the Competition Council or the Commission (if the cooperation exceeds Latvian borders).

## Price Gouging

The ECN joint statement stresses the utmost importance to ensure that products considered essential to protect the health of consumers in the current situation (e.g. face masks and sanitizing gel) remain available at competitive prices, therefore the ECN would not hesitate to take action against companies taking advantage of the current situation by cartelizing or abusing their dominant position.

The Competition Council and Consumer Rights Protection Centre also issued a [joint statement](#) on 18 March calling on companies to act in good faith during the emergency situation and refrain from applying excessive prices or committing antitrust violations. The Council expressly noted the sudden increase in prices for certain products in retail and stressed any vertical or horizontal arrangements to increase retail prices would be severely enforced under competition law (either under abuse of dominance or restrictive agreements). The Council also stressed that currently there is no need for concern that retailers might run short of food products and other goods, and that competition law rules are certainly not cancelled during the emergency situation.

## Misleading Advertising

Misleading advertising infringements toward consumers are enforced by the Consumer Rights Protection Center, which has [stressed](#) that it is focusing on false and misleading advertisements related to COVID-19.

## Enforcement Priorities

The Council has noted that the two primary concerns during the emergency are cartels and RPM enforcement. At the same time pursuant to the ECN statement the Council recognizes that the emergency situation may require cooperation among companies to ensure supply and distribution of scarce products. Insofar as such cooperation does not involve hardcore violations, the authority would not actively intervene against such temporary and necessary measures put in place in order to avoid a shortage of supply.

## Other Considerations

None.



## Lithuania

### Ellex Valiunas

**Marius Juonys**

[Marius.juonys@ellex.lt](mailto:Marius.juonys@ellex.lt)

Competition Authority: Competition Council of the Republic of Lithuania (<http://kt.gov.lt/en/>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

No, however the Competition Council has [acknowledged](#) that it may have difficulties gathering information from undertakings.

Parties engaged in complex mergers or mergers requiring information from the market are encouraged to evaluate whether they will be able to ensure proper and timely involvement. Additionally, time delays are possible where market inquiries must be made.

### Investigations/Litigation

#### Filings

Paper filings will still be accepted if they are sent by mail or delivered from 9 a.m. to 12 p.m. However, the Competition Council advises to send documents electronically.

#### Delays/Other Considerations

The Competition Council stated that work will be organized from home unless when work from the office is necessary for the Competition Council to perform its functions.

However, we think that investigations involving face-to-face interviews or other negotiations may suffer delays.

## Communications With the Regulator

### How are filings made/meetings handled?

The Competition Council remains in operation, but entry into its premises are limited. Paper filings will still be accepted if they are sent by mail or delivered from 9 a.m. to 12 p.m. No information is provided about in-person hearings or interviews, but they may face delays during this period.

Communication to the Competition Council may be made electronically through e-mail or teleconferences. The Competition Council is replacing hard copy letters with documents signed with electronic signature or e-mails.

## Other Antitrust Issues

### Competitor Collaborations

The Competition Council as well as other ECN members released a statement on March 23, 2020 allowing the competitor collaboration between suppliers, wholesalers and retailers of daily products which ensures the supply and fair distribution of scarce products to all consumers. Competitors can also inform and cooperate on store shopping hours, share warehouses or transport if it helps to reach the abovementioned goal. However, it was also noted that companies should not try to take advantage of the current situation.

### Price Gouging

On April 7, 2020, the Government amended the Law on Civil Protection and included provision which allows to set maximum prices of essential products and (or) services if supplier, wholesalers or retailers are abusing their positions while setting prices. However, the amendment has not been signed by the President, so no further information is known about what products or services are essential.

Application of competition rules in relation to excessive prices is currently the same.

### Misleading Advertising

The State Consumer Rights Protection Authority has published a number of articles providing information about common misleading advertisements and warnings to customers and businesses to be careful on the Internet.

Additionally, a [general warning](#) has been made that parties may be fined for misleading advertising.

## Enforcement Priorities

The Competition Council emphasized that it is ready to consult business on individual collaboration, however no other enforcement priorities were communicated.

In our opinion, urgent competition issues related to COVID-19 may be prioritized over ongoing enforcement.

## Other Considerations

Parties cannot contact the Competition Council through phone.

## Luxembourg

### Arendt & Medernach

**Philippe-Emmanuel Partsch**

[Philippe-emmanuel.partsch@arendt.com](mailto:Philippe-emmanuel.partsch@arendt.com)

**Thomas Evans**

[Thomas.evans@arendt.com](mailto:Thomas.evans@arendt.com)

Competition Authority: Competition Council (<https://concurrence.public.lu/fr.html>)

## Merger Review

### New Filings Accepted?

N/A. Luxembourg does not have a formal merger control regime.

### Waiting Period Delays?

N/A. Luxembourg does not have a formal merger control regime.

## Investigations/Litigation

### Filings

The Competition Council will review any potentially anti-competitive behavior of which it becomes aware. It will carry out its functions in the usual manner, making use of all its means of investigation and sanction.

Complaints concerning alleged anticompetitive practices or conduct can be made through the [online complaint form](#).

Nonetheless, physical meetings are currently suspended during the measures aimed at combatting the COVID-19 pandemic. Conference calls and telephone calls remain possible, however.

### Delays/Other Considerations

Any procedural steps requiring physical presence are currently suspended. This includes meetings and hearings with the Competition Council.

## Communications With the Regulator

### How are filings made/meetings handled?

Meetings within the Competition Council's premises are postponed. If necessary, conference calls can be arranged by the members of the Council.

## Other Antitrust Issues

### Competitor Collaborations

According to its Guidance document on its enforcement during the COVID-19 pandemic, the Competition Council will not take action against temporary forms of coordination between competitors provided that the measures are:

- appropriate and necessary in order to avoid a shortage or to ensure security of supply for essential products;
- clearly in the public interest;
- contribute to the interest or welfare of consumers;
- address critical issues that have arisen as a result of the current pandemic; and
- do not last longer than necessary to address these critical issues.

The coordination must not go beyond what is strictly necessary to the authorized objective.

Although the Competition Council will not grant formal authorization of coordination between undertakings, it has stated that it will answer informal questions in order to provide undertakings with guidance.

### Price Gouging

The Council considers it is of the utmost importance to ensure that the prices of products or services that are essential to protect health of citizens are not artificially inflated by companies seeking to take advantage of the current situation.

Manufacturers can take action themselves to combat excessive retail prices and to set a maximum resale prices for its retailers.

### Misleading Advertising

The Competition Council has not issued any special guidance in the context of the COVID-19 pandemic.

### Enforcement Priorities

The Competition Council gives priority to complaints related to the COVID-19 pandemic and in particular those concerning health products to fight the virus which should be made available without discrimination.

The Council will monitor any suspicion of excessive prices, artificial shortages of supply, or anticompetitive agreements between undertakings or association of undertakings or other abusive behavior in this particular area.

### Other Considerations

N/A



## Malta

### GANADO Advocates

**Sylvann Aquilina Zahra**

[sazahra@ganadoadvocates.com](mailto:sazahra@ganadoadvocates.com)

**Clement Mifsud-Bonnici**

[cmifsudb@ganadoadvocates.com](mailto:cmifsudb@ganadoadvocates.com)

#### Competition Authority:

- Office for Competition (forming part of the Malta Competition and Consumer Affairs Authority (MCCAA))  
(<https://www.mccaa.org.mt/Section/index?sectionId=1060>)
- Civil Court (Commercial Section)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

No. All legal time frames continue to apply.

The Office for Competition has announced that all notification forms and supporting documents must be submitted to it electronically. The original copy of the concentration notification form requested by law should only be sent where requested by the Office.

### Investigations/Litigation

#### Filings

Complainants may continue to file complaints before the Office for Competition.

All filings and hearings before the Civil Court (Commercial Section) are currently suspended, except in cases which are urgent or which relate to the public interest.

## Delays/Other Considerations

Investigations continue by the Office for Competition. Although no formal announcement in this respect has been made, some delays may be expected as the Office is working remotely and may be more willing, at least in some cases, to grant undertakings a longer time to reply to requests for information.

## Communications With the Regulator

### How are filings made/meetings handled?

The Office for Competition is requesting filings and documentation to be submitted to it electronically.

Where possible, meetings with the Office are held remotely.

## Other Antitrust Issues

### Competitor Collaborations

The Office for Competition has published a statement on its website referring to the Joint Statement by the European Competition Network (ECN) on the application of competition law during the Corona crisis. According to the Joint Statement, the ECN understands that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers and that, in the current circumstances, the ECN will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply.

The Office for Competition, however, pointed out in its statement that it will not hesitate to take action against companies taking advantage of the current situation by setting up cartels or abusing of a dominant position.

If companies have doubts on the compatibility of such cooperation, they can contact the Office for Competition for informal guidance.

### Price Gouging

In its Joint Statement, the ECN explained that it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current situation (e.g. face masks and sanitizing gel) remain available at competitive prices. Again, as announced in its statement, the Office for Competition is prepared to take action against companies taking advantage of the current situation by setting up cartels or abusing of a dominant position.

## Misleading Advertising

Although no statement has been issued in this respect, the Office for Consumer Affairs (which also forms part of the MCCAA) remains vigilant in terms of its statutory obligations to monitor misleading advertising during this period.

## Enforcement Priorities

Urgent anti-competitive conduct emerging as a result of the COVID-19 outbreak is likely to be prioritized by the Office for Competition at this time over other cases.

## Other Considerations

The MCCAA is available to the public online, on social media platforms and by telephone.

See: <https://www.mccaa.org.mt/Section/Content?contentId=5338>.

## Netherlands

### Houthoff

**Jetty Tukker**

[j.tukker@houthoff.com](mailto:j.tukker@houthoff.com)

Competition Authority: Authority for Consumers & Markets (<https://www.acm.nl/en>)

## Merger Review

### New Filings Accepted?

Yes.

### Waiting Period Delays?

The Authority for Consumers & Markets (the "**ACM**") has not formally announced any specific measures regarding waiting periods, but it may well be that the ACM will contact notifying parties to agree on alternative deadlines. In a [statement](#) issued on March 18, 2020, the ACM asked for

understanding in cases of delays in procedures and communication. It declared that it will, in turn, take a lenient approach when handling deadlines. It is advisable that companies give advance notice to the ACM if they anticipate a notification.

## Investigations/Litigation

### Filings

It is business as usual for submissions to the ACM. Submissions to courts that would ordinarily be sent by post or fax can temporarily also be sent through the 'safe mailing system'. The courts will continue to issue judgments.

### Delays/Other Considerations

The deadlines for submitting documents to the courts remain unchanged as much as possible, unless the court reports otherwise. In-person hearings by courts are suspended until at least April 28, 2020, which might lead to delays in judgments. In urgent matters, the courts will hear cases via videoconference or teleconference.

## Communications With the Regulator

### How are filings made/meetings handled?

Unless parties and the ACM have agreed on alternative methods, the [ordinary requirements](#) for submitting filings to the ACM continue to apply. However, all in person-meetings have been suspended and the ACM is reaching out to the involved parties to seek alternatives, such as teleconferencing.

## Other Antitrust Issues

### Competitor Collaborations

The ACM has [endorsed](#) the joint statement issued by the European Competition Network ("ECN") on March 23, 2020, declaring that – while the objective of a level playing field between companies is still relevant – the current extraordinary situation may trigger the need for companies to cooperate to ensure the supply and fair distribution of scarce products to consumers. The ACM will not intervene when companies temporarily cooperate, if this cooperation is necessary to ensure the supply and fair distribution of scarce products to consumers. In the case of doubt, companies are encouraged to consult the ACM for informal guidance.

### Price Gouging

The ACM will carefully scrutinize excessive pricing by dominant parties of products considered essential in the current situation, such as face masks and other personal protective equipment, disinfectants or ventilators.

# Europe

## Misleading Advertising

The ACM reiterates that, despite the current crisis, consumers must not be misled. Sellers cannot make wrongful claims and must continue to provide correct and realistic information. This information obligation also applies, for example, in situations where products will be delivered later or can no longer be delivered at all due to factory closures. Consumers are invited to report (online) abuses related to the coronavirus crisis to the ACM's [ConsuWijzer](#).

## Enforcement Priorities

It is likely that the ACM will prioritize issues relating to (1) excessive pricing and/or the fair distribution of essential coronavirus products, and (2) misleading consumers.

## Other Considerations

N/A

## Norway

### Advokatfirmaet Thommessen AS

Siri Teigum

[ste@thommessen.no](mailto:ste@thommessen.no)

Eivind J Vesterkjær

[eve@thommessen.no](mailto:eve@thommessen.no)

Eivind Sæveraas

[eis@thommessen.no](mailto:eis@thommessen.no)

#### Competition Authority:

- Konkurransetilsynet (The Norwegian Competition Authority, "NCA") (<https://konkurransetilsynet.no/?lang=en>)
- Forbrukertilsynet (The Norwegian Consumer Authority) (<https://www.forbrukertilsynet.no/english>)

## Merger Review

### New Filings Accepted?

Yes.



## Waiting Period Delays?

A Temporary Act on Exemptions from Certain Procedural Rules in the Competition Act as a result of the COVID-19 outbreak has been adopted and is expected to enter into force on April 17, 2020 (per 16 April 2020).

Under the Temporary Act, the NCA's deadline for issuing a decision in Phase 1 is extended by 15 working days, from 25 to 40 working days. If the case enters Phase 2, the NCA's deadline for issuing a statement of objections is extended from 70 to 85 working days, respectively. The NCA's deadline for adopting a decision where the parties propose new or amended remedies later than 55 days from the notification was submitted is also extended by 15 working days, to 100 working days.

The Temporary Regulation also provides the Ministry with the power to provide regulations on further exemptions, if necessary.

The extensions apply both to cases that have already been notified to the NCA at the time when the Act enters into force, and to future cases.

## Investigations/Litigation

### Filings

Filings to the NCA are made electronically. Tip-offs are received as under normal circumstances.

### Delays/Other Considerations

Ongoing investigations are in principle handled as normal.

The Temporary Act also extends deadlines for appeals against the NCA's decisions and for decisions by the Competition Complaints Board.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings to the NCA are made electronically.

In a public statement on March 24, 2020, the NCA stated that it will maintain a close dialogue with parties in the case of any delays.

The NCA's staff are encouraged to work from home. Internal and external meetings are conducted via telephone or video conference. Physical meetings may exceptionally occur.

## Other Antitrust Issues

### Competitor Collaborations

The NCA and the ESA aim to enforce the Competition Rules pursuant to [the European Commission's Temporary Framework](#), which sets out scenarios in which limited cooperation amongst businesses may be lawful in the context of the pandemic, especially critical hospital medicines.

The Norwegian Government has granted a three months temporary exemption for the transportation sector from Section 10 of the Norwegian Competition Act (mirrors Article 53 of the EEA Agreement and TFEU Article 101). The exemption makes it possible to maintain the transportation of passenger and goods in Norway in order to secure the population access to necessary goods and services.

### Price Gouging

The Competition Authority has [released a statement](#) urging traders to refrain from exploiting the situation by charging high prices for essential goods such as face masks and stated that they will prevent unreasonable or excessive price hikes. To this end the NCA may apply the Price Policy Act, which prohibits unreasonable prices and business terms and allows the NCA to regulate prices of important goods and services.

### Misleading Advertising

[The Consumer Authority](#) has stated that claiming products will cure or prevent COVID-19 entails a misleading commercial practice, which is prohibited pursuant to the Marketing Control Act and may result in fines.

A government bill which will provide the Consumer Authority and the Courts with authorization to block access to websites that violate the Marketing Control Act is currently pending before the Parliament.

### Enforcement Priorities

The NCA has joined the statement from the network of European competition authorities of March 23, 2020 on application of competition law during the Corona crisis (available here: [Joint statement by the ECN](#)).

### Other Considerations

N/A

## Poland

### Advokatfirmaet Thommessen AS

**Tomasz Wardyński**

[tomasz.wardynski@wardynski.com.pl](mailto:tomasz.wardynski@wardynski.com.pl)

**Antoni Bolecki**

[antoni.bolecki@wardynski.com.pl](mailto:antoni.bolecki@wardynski.com.pl)

**Sabina Famirska**

[sabina.famirska@wardynski.com.pl](mailto:sabina.famirska@wardynski.com.pl)

#### Competition Authority:

- Office for Competition and Consumer Protection (OCCP) (<https://www.uokik.gov.pl/home.php>)
- Competition and Consumer Protection Court (CPCC) (<https://bip.warszawa.so.gov.pl/artykuly/296/xvii-wydzial-sad-ochrony-konkurencji-i-konsumentow>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

Yes. In general, procedural deadlines do not begin during the state of epidemic formally declared due to COVID-19 (currently in force) and deadlines that have begun are suspended for that period.

### Investigations/Litigation

#### Filings

**OCCP:** filings accepted, although access to the building and the OCCP office is limited.

**CPCC/other courts (for follow-on claims):** pleadings and applications may be filed by post; the Warsaw Regional Court (including CPCC) allows letters to be filed by e-mail as a PDF attachment; the attachment is then printed out and added to case file and the court treats the instrument as filed on time, although with a formal defect that can be remedied later.

## Delays/Other Considerations

Deadlines do not begin during the state of epidemiological threat or of epidemic declared due to COVID-19 and those that have begun are suspended for that period.

## Communications With the Regulator

### How are filings made/meetings handled?

As usual, formal filings to the OCCP must be made in writing (directly or by post); direct and informal communication with the OCCP should be made via e-mail (by telephone is also limited as most staff is working remotely). As a rule, no meetings are held.

## Other Antitrust Issues

### Competitor Collaborations

No specific guidance from the OCCP. [ECN communication](#) should apply.

### Price Gouging

A team has been set up at the Office of Competition and Consumer Protection to monitor food and hygiene product prices. OCCP officials and the Trade Inspectorate will check pricing on online shopping sites, brick and mortar stores, as well as retail chains.

The OCCP has stated that it will look at retail in the agricultural and foodstuff sector and does not rule out intervention for unfair use of contractual advantage with respect to small and medium-sized businesses, whose contracts for supply of products may not be honored by their counterparts.

The OCCP will also use price monitoring to produce pricing analyses, which will be used to set maximum prices (maximum prices/margins for certain products may be set by the Minister of Development or the Minister of Health; undertakings may be fined between PLN 5,000 and 5 million for exceeding maximum prices and margins).

### Misleading Advertising

No specific, COVID-19-related action/guidance.

### Enforcement Priorities

Consumer protection, price monitoring.

## Other Considerations

The OCCP has launched a dedicated coronavirus information package for consumers at <https://www.uokik.gov.pl/koronawirus.php>. The advice is divided into categories: “Tourist services”, “Hotels”, “Transport”, “Sales”, “Services”, and “Consumer protection” and provides information on consumers’ rights and legal solutions in a particular area.

## Portugal

### Morais Leitão, Galvão Teles, Soares da Silva & Associados

**Joaquim Vieira Peres**  
[vieira.peres@mlgts.pt](mailto:vieira.peres@mlgts.pt)

**Luís Nascimento Ferreira**  
[lnascimento@mlgts.pt](mailto:lnascimento@mlgts.pt)

**Carlos Botelho Moniz**  
[cmoniz@mlgts.pt](mailto:cmoniz@mlgts.pt)

**Inês Neves**  
[ifneves@mlgts.pt](mailto:ifneves@mlgts.pt)

#### Competition Authority:

- Autoridade da Concorrência (AdC) (Portuguese Competition Authority, PCA) (<http://www.concorrencia.pt/vPT/Paginas/HomeAdC.aspx>)
- Tribunal da Concorrência, Regulação e Supervisão (TCRS) (Competition Court, CC) (<https://comarcas.tribunais.org.pt/comarcas/calargada.php?com=santarem>)

## Merger Review

### New Filings Accepted?

Yes.

### Waiting Period Delays?

Even though the merger control procedures are not suspended, there is a risk of delays.



On March 16, 2020, the AdC published a press release on its website, to encourage stakeholders to use the electronic tools, available on its website, including the Electronic Notification System for Mergers (SNEOC).

In addition, by an e-mail sent to stakeholders, the AdC has clarified the “new communication procedures” to be set in place during the crisis, among which: (i) the use of digital means for all the correspondence addressed to the AdC, including postal and that destined to the lodging of any appeals, which should now be sent to [adc@concorrenza.pt](mailto:adc@concorrenza.pt); (ii) the exclusive use of the SNEOC for communications relating to merger filings (including requests for pre notification), only allowing the use of the email referred to above, by the interested third parties, or by the notifiers, when these face difficulties using the SNEOC; further emphasizing that (iii) the original paper documents should only be provided at the request of the AdC, and that, (iv) face-to-face service remains restricted to exceptional and urgent situations, subject to prior appointment by email.

Also noteworthy is the regime provided for in Article 17 of Decree-Law no 10-A/2020 (in effect since March 12, 2020) by which the deadlines resulting in tacit approval by the administration of authorizations and licenses that have been required by private individuals are suspended.

Although the provision is not clear in all its dimensions, we understand that, under this rule, in the event that the AdC does not issue a decision during the “tacit approval period”, the approval will not take place.

In the same vein, Article 7(3) of Law no 1-A/2020 (in effect since March 9, 2020) as amended, states that “[the] exceptional situation also constitutes a cause for the suspension of the limitation periods for all types of processes and procedures”. In other words, the limitation periods are suspended, but the ongoing proceedings are not (at least, the ones which are not specifically identified in paragraph 9).

The legislator has decided to limit the application of such exceptional regime to the administrative offenses and disciplinary procedures, - see paragraphs 1 and 9 (b) of the aforementioned Article 7, leaving other administrative procedures (such as merger filings) out. Moreover, as for the administrative and tax procedures, only the deadlines applicable to acts that are to be performed by private individuals are suspended. The provision of the aforementioned Article 7(9) (c), as amended, includes, in this exceptional procedural regime (subject to the necessary adjustments) all the acts to be performed by private individuals, these including, for instance, submitting observations in ongoing or about to open procedures; answering to requests for information or documents; etc.

The exceptional regime leaves aside the acts to be performed by the administrative authorities (in case, the AdC), save for the situations not covered by paragraph 9 (b) – administrative offenses procedures -, this means that the AdC shall continue to meet the time-limits.

## Investigations/Litigation

### Filings

Court – according to Article 7 of Law no 1-A/2020, as amended, the deadlines of non-urgent procedures are suspended as of March 9, 2020. The deadlines for urgent proceedings (those so qualified by law or by an order of the Court), which are not suspended, will follow the terms referred to in Article 7(7).

All the procedural acts that still must be performed shall be done electronically, through the proper computer platforms or by other appropriate means of remote communication, notably teleconference, video call or other equivalent. In the case of urgent proceedings, and in case the life, the physical integrity, the mental health, the freedom or the immediate livelihood of those involved are at stake, the diligences might be carried out in person, provided that this does not imply the presence of a number of people greater than the one foreseen by the health authorities' recommendations and that it is in accordance with the competent superior councils' guidelines.

### Delays/Other Considerations

Court – notwithstanding the suspension of the deadlines in non-urgent cases, the parties might still perform the procedural acts (in person and at distance) when they all agree to have the conditions needed to ensure their practice through the computer platforms that enable them to be carried out electronically or through the appropriate means of remote communication.

It is still to be clarified what should be understood by “*when all the parties understand that they have conditions*” and whether this includes unilateral acts (that may be performed only by one party), or if it only applies to those that involve the different parties' presence before the Court.

Article 7 of Law no 1-A/2020 also provides that, despite the suspension of time limits, courts might still issue final decisions when they consider that further steps are no longer necessary.

## Communications With the Regulator

### How are filings made/meetings handled?

All correspondence (including invoices or other documents related to the acquisition of goods and services in digital format) which do not concern merger submissions should also be done electronically, by email sent to: [adc@concorrenca.pt](mailto:adc@concorrenca.pt). The original paper documents should only be provided at the request of the AdC.

The face-to-face service, that must be reserved to the urgent and strictly necessary cases, is subject to prior appointment by email, using the address referred to above.

The presentation of exposures and complaints as well as leniency applications should be done using the regular means of communication, these including, respectively, the AdC Complaints Portal (through the phone number 217.902.088) and the telephone line 217.902.030.

## Other Antitrust Issues

### Competitor Collaborations

There are no legal developments so far, aimed at softening or strengthening the rules on competitor collaborations. Therefore, the Portuguese Competition Act remains fully applicable.

In this regard, the AdC has published a press release, in which it states that it remains vigilant in its mission, particularly in the detection of possible anticompetitive practices that might exploit the current situation to the detriment of people and the economy, through price fixing or market

sharing. The AdC further calls upon suppliers, distributors and resellers from any sector of the economy, and at any level of the supply chain, including e-commerce, to adopt responsible and lawful business behaviors. It also recalls that any person or company may electronically report suspected anti-competitive practices by using the AdC Complaints Portal.

The AdC finishes its statement by underlying that it is in permanent coordination with other sectoral regulators and public entities, with a view to proactively detecting competition problems that might further harm the community.

### Price Gouging

The Safety Food and Economic Authority (ASAE) has already launched various inspections concerning allegedly illegitimate profit obtained from the sale of goods deemed necessary to prevent and fight the pandemic, notably, personal protective equipment and medical devices (masks, gloves, etc.), as well as biocidal products, such as alcohol, alcohol gel and sanitizing.

In a [press release](#) of March 19, 2020, ASAE informed that, as a result of its intervention, the following probes were initiated: (i) a criminal proceeding for illegitimate profit in the supply of alcohol gel, and (ii) two administrative offenses procedures for illegal commercial practices. ASAE warned in its statement that it will continue to trigger actions to combat speculation while also ensuring that products on the market meet the requirements, this way ensuring fair competition and the safety of consumers.

Furthermore, and with awareness of the increasing complexity of the areas and domains subject to inspection, the ASAE has made available a form, in order to ensure a quicker and more effective response, as well as to facilitate the submission of complaints. The form is available [here](#).

Following the first investigation referred to above, the ASAE continues its operations, now with a broader scope of intervention, including the verification of general and specific hygiene requirements by restaurants providing take-away options. In this same context of combating illegitimate profits in essential goods to prevent the spread of COVID-19, the ASAE has also carried out an inspection at the premises of a retailer of telecommunications and mobile phone accessories.

In this regard, it is important to underline that the Presidential Decree no 14-A/2020 (the one that declares the State of Emergency), determines that the competent public authorities may i) request the provision of any services and the use of movable and immovable property, health care units, commercial and industrial establishments, companies and other production units, as well as ii) impose the mandatory opening, working and operation of companies, establishments and means of production, as well as their closure and other limitations or modifications on the respective activity, including changes on the quantity, nature or price of the goods produced and traded or on the respective distribution and marketing procedures and circuits, as well as changes on the respective operating regime.

Following that declaration, the Presidential Decree no 17-A/2020, that renews the State of Emergency, expressly provides for the adoption of measures to control prices and fight speculation or the hoarding of certain products or materials.

With the approval of Decree no 2-B/2020 of 02-04-2020 (which regulates the renewal of the State of Emergency), Article 28(2) (c) now states that the member of the Government responsible for Health is competent to (with the power to delegate) determine the necessary exception measures, among which containment and market limitation measures, the setting of maximum prices, the centralized monitoring of stocks and quantities produced, and the exemption from the payment of fees for economic players operating in urgent situations.

Following this allocation of competences, Decree Law no 14-F/2020 of 13-04-2020, which amends Decree Law no 10-A/2020 of 13-03-2020, introduces a new Article 32-B concerning market limitation measures. This new article provides that the member of the Government responsible for the area of Economy, along with the member of the Government responsible for the sectoral area (when available) may, with the power to delegate, determine the necessary exception measures, concerning market containment and limitation measures, maximum prices fixing, limitation of the profit margins, monitoring of stocks and quantities produced, and exemption from paying fees for players that act in urgent situations. All these measures are to be adopted in the context of the emergency situation caused by the pandemic, and for as long as the state of emergency lasts.



## Misleading Advertising

The Portuguese Directorate-General for Consumers has published a [press release](#), in which it states that it is going to remain attentive to unfair commercial practices, such as the ones seeking to exploit consumers' fear in the face of the new corona virus, notably, practices aimed at promoting products or services guaranteeing or suggesting the cure or a particular treatment for the disease, or any other allegations that might mislead consumers as to their real effects or properties. For complaints, consumers may use the form [Complaints](#).

In the same vein, the Regulatory Authority for Health (ERS) issued, on March 20, 2020, a [supervision alert](#), stressing the need to protect users and ensure that the information being disclosed in this regard (either about the care that users should take, or about the behaviors that they should adopt at this time) are true and not likely to be misleading.

## Enforcement Priorities

Changes and impositions regarding price fixing (notably, the setting of maximum prices for certain essential goods) as well as modifications on the rules on individual restrictive trade practices and related diplomas, might occur. This will certainly intensify investigations from the competent authorities, mainly the ASAE and the AdC.

Investigations for anticompetitive practices might override merger control proceedings and be dealt with more urgency.

Decree Law no 14-E/2020, that provides for an exceptional and temporary regime regarding the design, manufacture, import, trading and use of medical devices and personal protective equipment, and implements Recommendation (EU) 2020/403 from the Commission, of March 13, 2020, might result in a shift on the priorities of ASAE, since Article 6 provides for the urgent and priority nature of the procedures, decisions and recommendations of the Portuguese Tax Authority, INFARMED and the ASAE, which result necessary for the manufacture, import, placement and making available on the market of medical devices and personal protection equipment.

## Other Considerations

Law no 7/2020, of April 10, 2020 includes guarantees on the provision of essential services, prohibiting the suspension of the provision of the following: a) water, b) electricity, c) natural gas and d) electronic communications services. The same law also imposes the drawing up of a payment plan, to be defined by an agreement between the supplier and the customer, in case there are debts related to the provision of the services referred to above.



There are also rules providing for the suspension of the commissions due for the use and execution of payment transactions through digital platforms of payment service providers, namely home banking or applications with a card-based payment instrument (see Article 5 of the same Law as well as Decree Law no 10-H/2020, of March 26, 2020).

Finally, it is worth mentioning that, following the fine imposed to Hospital Particular do Algarve for gun-jumping, and given that the sanction involved a company from the health sector (in this case a private hospital), the AdC has accepted the payment of the fine in several instalments so as to avoid any impact on the provision of the company's services, also stressing that it will continue its mission, with a sense of responsibility and orientation towards the common good.

## Romania

### Nestor Diculescu Kingston Petersen

**Georgeta Dinu**

[Georgeta.dinu@nndkp.ro](mailto:Georgeta.dinu@nndkp.ro)

Competition Authority: Competition Council ("Consiliul Concurenței") (<http://www.consiliulconcurentei.ro/>)

#### **Merger Review**

##### **New Filings Accepted?**

Yes.

##### **Waiting Period Delays?**

No delays anticipated. The President of the Romanian Competition Council publicly declared the meeting the legal deadlines is expected.

## Investigations/Litigation

### Filings

According to the Presidential Decree on Emergency State, any time limits do not start to elapse and, if they started to elapse, they are suspended for the entire duration of the emergency state.

Thus, the 30-day time limit to challenge decisions issued by the Romanian Competition Council is suspended.

### Delays/Other Considerations

No dawn raids are conducted and initiation of new investigations can be delayed. While ongoing investigations are expected to continue their course, deadlines for answering requests for information can in practice be expected to be longer than regularly.

## Communications With the Regulator

### How are filings made/meetings handled?

No physical meetings, teleconferencing remains available on ongoing/ new files. Communications are made by e-mail, phone or mail.

Merger filings are submitted by e-mail, with originals and hardcopies by mail.

Any complaints or referrals from whistle blowers can be submitted via mail, e-mail or the authority dedicated website.

## Other Antitrust Issues

### Competitor Collaborations

In line with the ECN position, the Competition Council publicly announced that during this crisis some forms of cooperation are accepted. Also, the authority adhered to the Framework Communication addressing the antitrust issues related to cooperation between competitors in COVID-19 related urgency situations, especially in relation to cooperation in the health sector.

For instance, companies can coordinate in order to limit the deficit of essential products and ensure a balanced distribution – for example, retailers can coordinate transport to ensure the supply of products/ home delivery for people not able to leave their homes.

High competition risks may still occur if for example, competitively sensitive information is shared (e.g., current or future prices, costs, output); if the cooperation is used as an opportunity to set prices, restrict output, divide customers or markets, or coordinate commercial strategies.

Any practice that is not justified by the current context will continue to be sanctioned – it is recommended for companies to check with the authority the measures they intend to put in place. For this, the Romanian Competition Council offers informal guidance to companies.

## Price Gouging

From a competition law perspective, most risks in the case of price increases in this period may arise especially for dominant undertakings (dominance being presumed at market shares exceeding 40%).

In addition, the Romanian Competition Council announced that companies must insure that prices are available at competitive prices: owners of online platforms may impose measures to limit the unjustified increase of prices for basic products and services; producers can set a maximum price, which might be useful to limit unjustified price increases at distribution level.

According to public statements, price gouging might be subject to enforcement from tax and consumer protection authorities. In addition to that, the Presidential Decree on Emergency State provides that the prices of medicines, medical equipment, food of strict necessity and public utility services may be capped (e.g., electricity, thermal energy, water supply, sanitation, fuel etc.), within the limit of the average price of the last 3 months before the state of emergency was declared.

Until now, measures enacted in this regard concern public utility services, while for other products, several initiatives are pending.

## Misleading Advertising

Misleading advertising is mainly covered by consumer protection regulations. Practices related to use of misleading advertising/ information may fall under the abusive practices sanctioned by the Competition Council in the event of a dominant position.

## Enforcement Priorities

Although the Competition Council is very responsive to the needs of the companies to meet the difficulties derived from COVID-19 crisis, this does not lead to an exclusion from enforcement of competition rules. The Competition Council will take measures against companies that engage in abusive practices (such as setting excessive prices) or cartel type practices.

While the Competition Council launched an investigation into price increases for protective face masks, the usual enforcement priorities remain valid (e.g., cartels, mainly in tenders, exchange of information, certain abuse of dominance practices).

## Other Considerations

The authority is responsive to any public/private initiatives, so we expect strong enforcement during COVID-19 crisis and in the aftermath.

## Serbia

### JPM Jankovic, Popovic & Mitic

**Nikola Poznanović,**  
nikola.poznanovic@jpm.rs

**Bojana Javorić,**  
bojana.javoric@jpm.rs

Competition Authority: Commission for Protection of Competition (<http://www.kzk.gov.rs/en>)

## Merger Review

### New Filings Accepted?

Yes. Moreover, the Government issued a Regulation on deadlines during the state of emergency (the “**Regulation**”), applicable to administrative procedures before the Commission. The Regulation only relates to deadlines and in that regard to the written submissions delivered during the state of emergency and does not affect the implementation of other provisions of the Law, regulations and administrative provisions.

The Commission has underlined the following in respect of the Regulation: undertakings shall still submit merger notifications and requests for individual exemption without being liable for breaching the prescribed deadlines (15 days for merger notifications).

### Waiting Period Delays?

Yes, as in accordance with the Regulation the Commission is entitled to render decisions after the expiry of the state of emergency. In practice, the Commission is not waiting for the expiry of state of emergency to render the decisions.

## Investigations/Litigation

### Filings

New investigations, proceedings and filings are accepted by the Commission, however in respect of the Regulation the Commission underlined the following:

- deadlines which expire during the state of emergency and relate to taking administrative acts, completing administrative procedures (for example, decisions in merger cases) and deciding on the legal remedies accessed, shall be considered passed upon expiry of 30 days from the termination of the state of emergency;
- written submissions in administrative procedures from which non-extendable periods start to run (for example, decisions, conclusions on closure of proceedings, conclusions on data protection, etc.) delivered during the state of emergency, within the meaning of implementation of the deadlines stipulated, shall be considered delivered upon the expiry of 15 days from the termination of the state of emergency;
- parties to the proceedings cannot be held liable for the consequences of improper performance within deadlines set out in conclusions and other orders of the Commission requiring compliance in on-going administrative procedures, including proceedings instituted at the request of a party or ex officio; accurate and proper fact-finding is in the interest of the parties, thus the Commission invites the parties to act in a timely manner to the extent possible under the circumstances;
- undertakings cannot be held liable for the consequences of improper performance within deadlines set out in conclusions and other orders of the Commission requiring compliance in sector inquiries.

New filings for litigation procedures are accepted by the Serbian courts, however the following deadlines have stopped running from March 15, 2020 based on Government's Regulation on deadlines in court proceedings until the state of emergency ends:

- submitting claims in litigation proceedings, deadlines in non-contentious proceedings, motions for initiating non-contentious, enforcement and security proceedings, claims in administrative disputes and constitutional appeals;
- submission of legal remedies or other procedural actions in the proceedings listed above; and
- submission of appeals on the decisions on termination of misdemeanor and corporate offense proceedings, as well as extraordinary legal remedies in these proceedings.

## Delays/Other Considerations

Yes, in accordance with the Regulations, the Court is entitled to render decisions after the expiry of the state of emergency.



## Communications With the Regulator

### How are filings made/meetings handled?

- The Commission has suspended meetings with parties.
- The communication during the state of emergency is conducted via email ([office@kzk.gov.rs](mailto:office@kzk.gov.rs)).
- Written submissions (apart from merger notifications) and other mail can be submitted by electronic means, via e-mail [pisarnica@kzk.gov.rs](mailto:pisarnica@kzk.gov.rs) or thorough PE Pošta Srbije postal services.
- Merger notifications and e-mails with attached submissions that exceed 100MB in size should be submitted by post or directly in the Clerk's Office.

## Other Antitrust Issues

### Competitor Collaborations

There are no statements of the Commission regarding this aspect.

### Price Gouging

The Government rendered decisions on:

- Restrictions on increase of prices and margins regarding basic food items (e.g. wheat, yogurt and milk), protective personal equipment and cleaning items. Margins of all participants in the supply chain are restricted for certain goods (vegetables and fruits; fresh meat; plastic masks with textile filter; paper masks; rubber, surgical and other gloves; bleach and other disinfectants; aseptol; alcohol).
- The maximum price of a mask in retail which may be approx. 1 EUR, with one person being allowed to buy 10 masks at once, while the maximum price of gloves in retail may be approx. 0,3 EUR, with one person being allowed to buy 10 pairs at once.

### Misleading Advertising

There are no statements of the Commission regarding this aspect.

### Enforcement Priorities

There are no statements of the Commission regarding this aspect.

### Other Considerations

There are no statements of the Commission regarding this aspect.

## Slovakia

### Čechová & Partners s.r.o.

**Tomáš Mareta**

[tomas.mareta@cechova.sk](mailto:tomas.mareta@cechova.sk)

**Marek Holka**

[marek.holka@cechova.sk](mailto:marek.holka@cechova.sk)

Competition Authority: Antimonopoly Office of the Slovak Republic (AMO) (<https://www.antimon.gov.sk/antimonopoly-office-slovak-republic/>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

No.

#### Investigations/Litigation

##### Filings

AMO and the courts are accepting filings both electronically and on paper (in a limited regime).

##### Delays/Other Considerations

Administrative proceedings before AMO are ongoing, and waiting period are running.

All court hearings, save for certain exemptions (mostly criminal cases and matters concerning minors, often held by videoconference) were cancelled. With certain exceptions, procedural deadlines for parties to court proceedings shall not run until April 30, 2020 (with possible further extension).

## Communications With the Regulator

### How are filings made/meetings handled?

AMO is accepting both electronic and paper filings, while electronic filings are preferred. Filing office of the AMO is working in a limited regime, open only on Tuesdays and Thursdays between 9 and 11 a.m. Office hours at the AMO were cancelled, save for pre-agreed meetings. AMO decisions are delivered to the parties electronically.

The courts are accepting both paper and electronic filings, while electronic filings are preferred. Filing offices at the courts are working in limited regime (to be verified depending on the court). Information centers of the courts are closed and limited to phone and e-mail communication (i.e. it is not possible to physically inspect the file). Entry to court buildings is restricted.

## Other Antitrust Issues

### Competitor Collaborations

AMO emphasized the [Joint statement](#) by the European Competition Network (ECN) on application of competition law during the Corona crisis (Joint Statement).

According to the Joint Statement, the ECN understands that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers. In the current circumstances, the ECN will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. Considering the current circumstances, such measures are unlikely to be problematic, since they would either not amount to a restriction of competition under Article 101 TFEU/53 EEA or generate efficiencies that would most likely outweigh any such restriction.

### Price Gouging

In the Joint Statement, the ECN pointed out that the existing rules allow manufacturers to set maximum prices for their products. The latter could prove useful to limit unjustified price increase at the distribution level.

### Misleading Advertising

Misleading advertising is outside the scope of public competition law in Slovakia. Private enforcement of unfair competition is limited due to restricted regime of the courts (delayed hearings). No special activity in administrative enforcement against false advertising.

## Enforcement Priorities

According to the Joint Statement, it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current situation (e.g. face masks and sanitizing gel) remain available at competitive prices. The ECN will therefore not hesitate to take action against companies taking advantage of the current situation by cartelizing or abusing their dominant position.

## Other Considerations

No additional local guidance beyond the Joint Statement was published.

## Slovenia

### ŠELIH & PARTNERJI Law Firm

**Nataša Pipan Nahtigal**  
natasa.pipan@selih.si

**Jera Majzelj**  
jera.majzelj@selih.si

**Špela Remec**  
[spela.remec@selih.si](mailto:spela.remec@selih.si)

Competition Authority: Slovenian Competition Protection Agency (<http://www.varstvo-konkurence.si/en/>)

## Merger Review

### New Filings Accepted?

Yes. However, the Agency has asked undertakings planning to file to delay such filings, if possible, until further notice.

### Waiting Period Delays?

The Agency is expecting delays in its decision-making process due to its staff working from home, limited access to information from data bases and market participants.

Under the emergency law adopted in response to the COVID-19 epidemic, all deadlines in administrative procedures, which includes all procedures before the Agency, shall not run until the threat of the COVID-19 epidemic ends, but in no event longer than until July 1, 2020.

## Investigations/Litigation

### Filings

Agency shall continue to accept filings.

### Delays/Other Considerations

The Agency has not indicated any special considerations in respect of its investigation procedures. However, probably these procedures will also be delayed due to limited access to information during the COVID-19 epidemic.

Due to the COVID-19 epidemic the Slovenian courts are currently only conducting urgent matters and most deadlines are suspended. However, the issuance of the dawn-raid investigation order is considered an urgent matter, therefore the courts may still issue an order and the Agency would be able to carry out a dawn-raid inspection also during the COVID-19 epidemic.

## Communications With the Regulator

### How are filings made/meetings handled?

The Agency shall continue to accept filings in paper form. However, all written filings can now be done also electronically without an electronic signature. Originals may be mailed or filed later.

## Other Antitrust Issues

### Competitor Collaborations

On March 23, 2020 the Agency published on its web pages a [joint statement](#) (“**Joint Statement**”) by the European Competition Network (“**ECN**”). According to the Joint Statement, the ECN and its members, including the Agency, understand that the COVID-19 situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers. In the current circumstances, the ECN, therefore including the Agency, will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. Moreover, the Joint Statement pointed out that considering the current circumstances, such measures are unlikely to be problematic, since they would either not amount to a restriction of competition under Article 101 TFEU/53 EEA or generate efficiencies that would most likely outweigh any such restriction. If companies have doubts about the compatibility of such cooperation initiatives with competition law, they can reach out to the Agency for informal guidance.



## Price Gouging

The Joint Statement cautioned that it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current remain available at competitive prices. The ECN, and therefore also the Agency, will therefore not hesitate to act against companies taking advantage of the current situation by cartelizing or abusing their dominant position, which would include price gouging. On the other hand, the Joint Statement pointed out that the existing rules allow manufacturers to set maximum prices for their products. The latter could, in the opinion of the ECN, prove useful to limit unjustified price increase at the distribution level.

On March 13, 2020 the [Market Inspectorate of the Republic of Slovenia](#) (“**Market Inspectorate**”) warned that the providers of good and services should not take advantage of the extraordinary situation and increase the prices of goods and services in high demand. According to the Market Inspectorate, such practice would amount to an aggressive commercial practice where the trader would exploit specific misfortune or circumstance of such gravity as to impair the consumer's judgement, of which the trader is aware, to influence the consumer's decision with regard to the product. A legal entity using an aggressive commercial practice may be fined between EUR 3,000 and EUR 40,000 and the responsible individual within the legal entity may be fined between EUR 300 and EUR 2,000.

On March 14, 2020 the Slovenian Government imposed maximum prices for certain types of protective and other medical equipment.

## Misleading Advertising

Misleading advertising is also sanctioned by the Market Inspectorate. A monetary fine between EUR 3,000 and EUR 40,000 may be imposed upon a legal entity and a fine between EUR 1,2000 and EUR 4,000 may be imposed upon the responsible individual within the legal entity.

Recently, in respect of the COVID-19 epidemic, the Market Inspectorate has cautioned about misleading advertising of protective face masks by one trader that made false accreditation statements.

## Enforcement Priorities

Based on the Joint Statement, it could be understood that the Agency will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply. However, it derives from the Joint Statement that the focus might be on any anticompetitive behavior looking to exploit the current epidemic crisis. It is, however, unclear what specific immediate measures the Agency could take, considering that it has itself stated that its operations are currently not ideal. Nonetheless, it is possible that enforcement actions will be taken after the epidemic crisis has passed, therefore businesses should ensure competition compliance even during the COVID-19 crisis.

## Other Considerations

N/A

## Spain

### Uría Menéndez

**Eduarne Navarro Varona**

[Eduarne.navarro@uria.com](mailto:Eduarne.navarro@uria.com)

Competition Authority: Comisión Nacional de los Mercados y la Competencia (<https://www.cnmc.es/>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

All administrative deadlines have been suspended since March 14, 2020 as a result of the declaration of the state of emergency. The state of emergency will last at least until April 26, 2020; but further extensions cannot be ruled out.

While this suspension is in place, the time limit to carry out merger investigations is suspended and the CNMC is no longer under an obligation to adopt a decision within the time limits. In addition, all other deadlines (such as third parties' deadlines to answer to RFIs) have also been suspended. The CNMC may, however, adopt organization and investigation measures to avoid serious harm to the rights and interests of the parties to proceedings, as long as the parties agree to them.

For simple cases, in practice, the CNMC is ordering continuing proceedings that clearly do not raise any competition concerns and that, consequently, do not require consultations with third parties such as competitors, clients or suppliers, and may therefore be handled swiftly.

Since the declaration of the state of emergency, the CNMC has cleared six transactions (*Naturgy/Sonatrach/Medgaz, Covetrus/Distrivet, Polyone/Masterbatch Clariant, Korian/Torrechante, NMC/Syntor, and Trunseo/Synthomer*).

However, for more complex cases where third parties' input is necessary, for example if a market test has to be conducted, merger processes will in effect be delayed until the state of emergency is lifted.

## Investigations/Litigation

### Filings

Filings to the CNMC and the courts can be made as usual.

### Delays/Other Considerations

As in the case of mergers, the maximum deadline for the CNMC to conclude antitrust investigations has been automatically suspended, as have procedures or requests that had not concluded on or before March 14, 2020, such as responses to requests for information or submissions of written observations regarding statements of objections or decision proposal.

Parties can access the CNMC case-file by electronic means, with the exception of leniency materials (these will only be available once the state of emergency is lifted and access can be provided at CNMC premises).

As for litigation, all judicial proceedings have also been suspended during the state of emergency. This affects both the parties' deadlines to make filings and trials and hearings, all of which have been stayed. As an exception, courts can take action in cases where this is necessary to prevent irreparable harm.

## Communications With the Regulator

### How are filings made/meetings handled?

All filings to the CNMC were made electronically before the COVID-19 crisis and this system remains in place and works well.

The CNMC premises are closed and the staff is working from home. The CNMC staff can be approached by phone and e-mail and meetings can be arranged by teleconference.

## Other Antitrust Issues

The CNMC has warned companies that it does not consider that the current crisis means, in general, that they can infringe the rules on agreements between undertakings or abuse dominant positions. The CNMC has intensified its vigilance of possible abuses or practices that could hinder the supply, or increase the price, of products that are considered essential to protect the health of consumers.

## Competitor Collaborations

The CNMC has joined the [communication](#) by the European Commission and EU national competition authorities, which explains that competition authorities intend to be as flexible as possible when assessing temporary cooperation agreements between businesses that concern the supply and distribution of scarce consumer products and which generate efficiencies that avoid supply shortages.

They have gone so far as to indicate that they have no intention to intervene in these cases and are willing to respond to consultations and offer informal guidance on projects that facilitate the production and supply of essential products.

The competition authorities also underline that manufacturers can impose maximum resale prices on their distributors, which could contribute to limiting potential price increases by distributors.

## Price Gouging

N/A

## Misleading Advertising

N/A

## Enforcement Priorities

The CNMC has established a dedicated “mailbox” for complaints related to potential competition infringements in the context of the COVID-19 crisis. The examples that the CNMC provided were *“abuses of dominant positions through price gouging; anti-competitive agreements between operators or unfair conduct consisting of massive fraud involving those goods and services affected by the health crisis.”* The mailbox can also be used to consult the CNMC on the legality of agreements between companies which address difficulties caused by the COVID-19 outbreak.

On April 7, 2020, the CNMC [announced](#) that it had received more than 50 enquiries and complaints in this mailbox. The complains mostly refer to possible anti-competitive behavior in the financial industry and in the marketing of basic goods and services. In particular, the CNMC is monitoring or has opened preliminary investigations in the following cases:

- Demands from financial entities for additional guarantees in order to obtain state-sponsored loans granted as a response to the crisis.
- Prices charged by funeral companies.
- Substantial increases in prices of healthcare products, such as for sanitizing gels and the raw materials to produce it (e.g. ethanol).

## Other Considerations

N/A

## Sweden

### Advokatfirman Vinge KB

**Martin Johansson**

[martin.johansson@vinge.se](mailto:martin.johansson@vinge.se)

Competition Authority: The Swedish Competition Authority (*Sw: Konkurrensverket*) (<http://www.konkurrensverket.se/>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

There is no official delay period. However, the Swedish Competition Authority has announced on its [website](#) that its operations will be conducted as usual but with the practical limitations that may follow due to the COVID-19 outbreak.

### Investigations/Litigation

#### Filings

As mentioned above, the Swedish Competition Authority intends to continue its operations as usual. The Courts' operations are also expected to continue as usual, as nothing has been declared by the Courts stating otherwise.



## Delays/Other Considerations

No official delay period has been announced by the Courts of Sweden.

A statement has been published on the [website](#) for the Courts of Sweden, saying that any party who experience respiratory issues, even mild ones, shall not visit the courts.

## Communications With the Regulator

### How are filings made/meetings handled?

No changes to the communication with the Swedish Competition Authority have been announced.

## Other Antitrust Issues

### Competitor Collaborations

The Swedish Competition Authority has on its website provided [guidance](#) on the competition rules during COVID-19, whereby it made clear that during the coronavirus crisis, the general competition rules apply as usual, i.e. the prohibition on anticompetitive agreements and abuse of a dominant position. The assessment of whether an agreement or a measure restricts competition depends, as always, on the context. There is no specific exception for cooperation between companies in times of crisis. The exceptions from the prohibition on anticompetitive agreements that exist under the current rules apply as usual.

Further, the Swedish Competition Authority has referred to the Commission's temporary [framework](#) for assessing antitrust issues related to business cooperation in response to situations of urgency stemming from the current COVID-19 outbreak, as well as the [statement](#) by the European Competition Network, which includes the Swedish Competition Authority, on the application of the competition rules during the COVID-19 outbreak.

### Price Gouging

In the above-mentioned [guidance](#), the Swedish Competition Authority stated that, with regard to pricing during the coronavirus crisis, it is particularly important that the prices of products of importance to health care are reasonable. For example, it could be that companies cooperate in a restrictive way by agreeing to stop production of defective products in order to keep up the price, or that a company abuses its dominant position by charging excess prices.

# Europe

## Misleading Advertising

No changes have been made to the current legislation with regard to deceptive marketing of products, such as advertising claiming to prevent the virus.

## Enforcement Priorities

The Swedish Competition Authority has [stated](#) on its website that if it receives indications that market participants are engaging in overpricing, it will prioritize such matters.

## Other Considerations

N/A

## Switzerland

### Pestallozzi

**Christoph G. Lang**

[christoph.lang@pestalozzilaw.com](mailto:christoph.lang@pestalozzilaw.com)

**Severin Etzensperger**

[severin.etzensperger@pestalozzilaw.com](mailto:severin.etzensperger@pestalozzilaw.com)

Competition Authority: The Swiss Competition Commission (<https://www.weko.admin.ch/weko/en/home.html>)

## Merger Review

### New Filings Accepted?

Yes.

### Waiting Period Delays?

No. Merger control proceedings will proceed as usual and the Competition Commission needs to handle them within the usual statutory time limits.

## Investigations/Litigation

### Filings

Legal advisors working from home are allowed to submit documents by email instead of postal delivery.

### Delays/Other Considerations

The rules on the standstill of time limits during judicial holidays apply as from March 21, 2020, until April 19, 2020. The Swiss government has decided that the standstill will not be prolonged after April 19, 2020.

## Communications With the Regulator

### How are filings made/meetings handled?

Legal advisors working from home are allowed to submit documents by email instead of postal delivery.

The Competition Commission has not issued specific guidelines regarding meetings, but physical meetings are currently unlikely to be held.

## Other Antitrust Issues

### Competitor Collaborations

The Competition Commission has issued a statement to emphasize that it does not tolerate companies exploiting the COVID-19 crisis to restrict competition. Challenges related to the COVID-19 crisis do not constitute a reason or justification for antitrust violations. In particular, the overall economic situation must not be abused to form cartels and agree on prices.

Nevertheless, the Competition Commission emphasized that it is available for questions and seeks discussions with associations, companies and other authorities on the design of measures to combat the COVID-19 crisis in conformity with antitrust law.

### Price Gouging

The Competition Commission has received various enquiries about price gouging, for example regarding masks or disinfectants. However, the Competition Commission can only intervene if the price gouging is a result of unlawful price agreements between undertakings or an abuse of a dominant market position.

Price gouging can constitute a criminal offence. The police department of the Canton of Zurich has informed that it has in two cases arrested suspects for price gouging regarding the sale of masks.

# Europe

## Misleading Advertising

The Competition Commission is not responsible for misleading advertising.

Misleading advertising can constitute a criminal offence. The police department of the Canton of Zurich has informed that it has in once case arrested suspects for misleading advertising regarding disinfectants.

## Enforcement Priorities

The Competition Commission might prioritize urgent requests regarding measures related to COVID-19. However, COVID-19 related collaborations seem not to be an enforcement priority of the Competition Commission so far.

## Other Considerations

N/A

## Turkey

### Pekin & Pekin

**Yegân Liaje**

[yliaje@pekin-pekin.com](mailto:yliaje@pekin-pekin.com)

**Anil Acar**

[aacar@pekin-pekin.com](mailto:aacar@pekin-pekin.com)

Competition Authority: Turkish Competition Authority (“**Authority**”) (<https://www.rekabet.gov.tr/>)

### Merger Review

#### New Filings Accepted?

Yes. We have been informed that they continue to work with some internal arrangements (mixed shifts between remote and workplace working) and accept submissions as usual.

## Waiting Period Delays?

No. There are no official measures regarding the working scheme or time periods/limitations announced by the Turkish Competition Authority.

## Investigations/Litigation

### Filings

As mentioned, there have been no measures taken on this front; however online submissions are encouraged as detailed below. For court proceedings for the purposes of appeals for the Authority's decisions before the administrative courts, it is possible to submit paper filings but in

practice, parties and counsel prefer to submit their petitions using UYAP (National Online Judicial Network System). Hearings are also suspended until April 30, 2020 apart from very urgent ones.

### Delays/Other Considerations

There is no official announcement/regulation pertaining to time periods or delays for the reviews handled by the Authority. However, unintentional delays might be expected due to the working scheme swift mentioned above.

For completeness, all time limits regarding the origination, exercise and termination of any rights, including but not limited to the statute of limitations, peremptory terms for filing legal actions, commencing enforcement proceedings, warnings, notices, submissions, complaints and objections; time limits regulated under the Code of Administrative Procedure ("CAP"), the Criminal Procedure Law ("CPL") and the Code of Civil Procedure ("CCP"); and time limits in mediation and reconciliation proceedings are suspended until April 30, 2020.

The following time limits are excluded from the Law's scope:

- time limits stipulated under the relevant laws for crimes and punishments, misdemeanors and administrative sanctions, and disciplinary imprisonments and preventive detentions;
- time limits stipulated under the CPL for precautionary measures; and
- time limits stipulated under the CCP for transactions regarding the completions of interim injunctions.

## Communications With the Regulator

### How are filings made/meetings handled?

An announcement has recently been made on the Authority's website encouraging (not obliging) applicants to submit any submissions and documents via an online portal ("e-Government" system enabling users to access several government services).



It is our understanding that communications with the case handlers for the on-going cases continue as usual.

## Other Antitrust Issues

### Competitor Collaborations

N/A

### Price Gouging

The Authority published an announcement on its website on March 23, 2020. The Authority stated that unreasonably high prices have been observed in the food sector with the intention of leveraging these extraordinary times.

The Authority declared that it is closely monitoring the relevant developments and will impose the “heaviest administrative monetary fines” to the undertakings who are engaged in such anti-competitive behaviors in the food sector.

### Misleading Advertising

N/A

### Enforcement Priorities

N/A

### Other Considerations

As there have been no official measures taken with respect to the working scheme and time periods of the Authority, it seems that specific reflections of the pandemic on the working schedule of the Authority may be tested on a case-by-case basis.

## Ukraine

### Asters

**Igor Svechkar**

[igor.svechkar@asterslaw.com](mailto:igor.svechkar@asterslaw.com)

Competition Authority: The Antimonopoly Committee of Ukraine (“**AMC**”) (<https://amcu.gov.ua/>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

The Government rolled out certain quarantine measures. The AMC introduced remote working for a number of case-handlers (on a weekly rotation basis). To our knowledge, the authority keeps working as usual and these measures have not affected the AMC’s deadlines and the overall process.

### Investigations/Litigation

#### Filings

Paper filings are accepted.

#### Delays/Other Considerations

Generally, AMC investigations are not limited by deadlines. Due to the quarantine measures, as well as possible changes in the AMC’s enforcement priorities, delays may be expected.

For litigation, currently courts accept lawsuits but postpone most of hearings due to quarantine and consider online hearings if the measures are extended.

## Communications With the Regulator

### How are filings made/meetings handled?

The AMC operates as usual (save for some changes in handling complaints in public procurement cases).

Filings to the AMC are generally made in paper form. Meetings and hearings are conducted in person.

In antitrust investigations the AMC conducts some interviews and holds some meetings via Skype.

## Other Antitrust Issues

### Competitor Collaborations

To our knowledge, the AMC has not announced any changes to its approach in relation to competitor collaborations due to COVID-19.

### Price Gouging

The AMC issued several notices warning manufacturers and resellers of certain “critical goods” (food, medications for treating coronavirus symptoms, personal hygiene products) not to charge excessive prices. Later the AMC opened investigation alleging potential price gouging by certain manufacturers and retailers of food and protection masks.

Similarly, in one of its notices the AMC warned the biggest Ukrainian poultry producer not to create “artificial deficit” on the Ukrainian market amid COVID-19.

The AMC is also putting pressure on road fuel retailers so they decrease their prices to reflect the downward trend in the global oil prices.

### Misleading Advertising

The AMC issued a notice warning they would be monitoring unfair competition practices (e.g., deceptive marketing for products claiming to prevent the virus).

Later the AMC opened an investigation alleging deceptive practices by local pharma manufacturer (the advertisement stated that drugs helped to fight 'coronaviruses').

## Enforcement Priorities

The AMC has not expressly stated that urgent virus-invoked issues will be prioritized over ongoing enforcement matters. However, their current focus on the “critical goods” means that they may change priorities if needed.

## Other Considerations

The AMC imposes very tight deadlines (sometimes shorter than provided by the law) for responding to AMC inquiries about "critical goods" and urges companies to comply with such deadlines. The authority also puts pressure on companies across the whole supply chain of "critical goods" to keep prices lower (through both formal recommendations and informal "warnings").

## United Kingdom

### Womble Bond Dickinson (UK)

**Andrij Jurkiw**

[andrij.jurkiw@wbd-uk.com](mailto:andrij.jurkiw@wbd-uk.com)

**Angelene Duke**

[angelene.duke@wbd-uk.com](mailto:angelene.duke@wbd-uk.com)

Competition Authority: Competition and Markets Authority (“CMA”) (<https://www.gov.uk/government/organisations/competition-and-markets-authority>)

## Merger Review

### New Filings Accepted?

Yes.

### Waiting Period Delays?

The binding statutory deadlines continue to apply and the CMA intends to carry on progressing its cases. Resources are being reallocated within the CMA to help ensure the most urgent and most critical work can be done on time. Pre-notification processes may take longer. The CMA has indicated that it will continue to monitor timetables and will extend statutory deadlines as and where necessary on a case by case basis. Any changes will be communicated to the parties involved and made publicly available on the CMA website.

## Investigations/Litigation

### Filings

Filings to the [Competition Appeal Tribunal](#) should be made electronically. Parties are encouraged to file other documents electronically and any party wishing to serve hard copy documents should contact the Tribunal Registry in advance.

All other hearings before the CMA are to be conducted remotely via video link or telephone.

### Delays/Other Considerations

No general extension of time is granted. The Tribunal has a general power to extend any time limits and recognizes that the current situation is exceptional. Requests for extensions of time will be determined on a case-by-case basis. It is anticipated timescales in pending cases before the Tribunal may be disrupted.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings to the CMA can be made electronically through the use of e-signatures, post or courier deliveries are not being accepted into any of its offices.

In person meetings are suspended and all meetings are to be conducted remotely via videoconferencing or telephone.

## Other Antitrust Issues

### Competitor Collaborations

The CMA [announced](#) it was "temporarily relaxing elements of competition law" and published its [approach](#) on March 25, 2020 identifying the current situation may require companies to cooperate to ensure "the supply and fair distribution of scarce products and/or services affected by the crisis."

The CMA confirmed it will not take enforcement action where short term, temporary measures are taken by businesses which are appropriate, and necessary in order "to avoid a shortage or ensure security of supply". Any cooperation by businesses must be in the public interest, must contribute to the benefit or wellbeing of consumers, must deal with critical issues that arise as a result of the COVID-19 pandemic, and must last no longer than is necessary.



The CMA has provided [guidance](#) on how it will apply the legal criteria for exemption from the prohibition on agreements and arrangements restrictive of competition during the COVID-19 crisis.

## Price Gouging

In the CMA's [statement](#) of March 5, 2020, it created a taskforce in order to scrutinize, and warn any firms or retailers suspected of exploiting the "exceptional circumstances" and take any required enforcement action. Steps have already been taken regarding excessive pricing of hand sanitizer.

On March 20, 2020, the CMA published a [letter](#) to the pharmaceutical/food and drink industries. The CMA has recognized it is of the "utmost importance" to ensure prices of essential products or services to protect the health of consumers are not artificially inflated.

It was confirmed that manufacturers can take steps to help combat price gouging and excessive pricing by setting maximum retail prices for their products.

## Misleading Advertising

The Advertising Services Authority ("ASA") has published a [statement](#) to address misleading claims and exploiting consumer fears about COVID-19 during the current retail conditions. Together with [Trading Standards](#), the ASA is monitoring adverts and misinformation to ban advertisements claiming to prevent the virus and has a self-reporting tool available [online](#) for consumers.

The ASA considers and monitors its current procedures in line with the advice of [Public Health England](#) and the Government.

## Enforcement Priorities

Resources are being reallocated within the CMA to help ensure the most urgent and most critical work can be done on time. This will include monitoring businesses suspected of charging excessive prices.

## Other Considerations

N/A

## Argentina

### Marval, O'Farrell & Mairal

**Miguel del Pino**  
[mp@marval.com](mailto:mp@marval.com)

**Santiago del Rio**  
[sdr@marval.com](mailto:sdr@marval.com)

Competition Authority: Comisión Nacional de Defensa de la Competencia (“**CNDC**”) (<https://www.argentina.gob.ar/defensadelacompetencia>)

#### Merger Review

##### New Filings Accepted?

Yes. A temporary electronic filing system has been implemented during the health emergency. Notifying parties must send by email, within the mandatory one-week period after closing, a digital copy of the filing form and its exhibits duly executed.

##### Waiting Period Delays?

Merger control system is post-closing. There is a suspension of procedural deadlines for ongoing proceedings before the CNDC. The immediate effect of the suspension is a delay in the term of the CNDC’s resolutions.

#### Investigations/Litigation

##### Filings

Yes, parties must use the temporary electronic filing system for urgent presentations.

##### Delays/Other Considerations

Procedural deadlines and hearings for ongoing procedures before the CNDC are suspended. It is expected both delays in CNDC decisions and a growing backlog of cases.

# Latin America and the Caribbean

## Communications With the Regulator

### How are filings made/meetings handled?

The CNDC has set up two mailboxes during the health emergency for urgent presentations or queries.

The CNDC's offices are closed to the public from March 16 until further notice. The CDNC is providing a minimum service limited only to the attention of those urgent matters.

## Other Antitrust Issues

### Competitor Collaborations

The Antitrust Law No. 27,446 is fully in force. There have been no changes in antitrust enforcement regarding collaboration agreements between competitors. The Antitrust Law prohibits agreements among competitors to fix prices, restrict output, submit collusive tenders, or divide or share markets. However, pursuant to Article 29 of the Antitrust Law, the CNDC can authorize competitors to enter into those agreements as long as they do not harm the general economic interest. Although this mechanism has never been put into practice, it may be useful during the current crisis.

### Price Gouging

After the health emergency was declared, the Argentine Executive Power has set out maximum prices of hand sanitizers and more than twenty three hundred food and personal health products.

The Secretary of Trade together with the National Tax Agency are conducting inspections in food producers, supermarkets, grocery stores, pharmacies and other retail outlets to ensure compliance with those maximum prices. Furthermore, that inspection powers provided in the Supply Law has also been delegated to provincial governors and mayors. However, solely the Secretary of Trade can impose fines and other penalties.

In order to prevent beef cattle prices increases, the government issued a price information system for all the actors in the meat value chain and ordered the CNDC to initiate a market investigation to find out if that increases are the result of illegal practices.

### Misleading Advertising

Even though the government has not issued any specific communication regarding COVID-19 and misleading advertising so far, the Fair Trade Decree No. 274/2019 prohibits those acts of deception regarding the nature, production method, key features and conditions of the goods and services.

# Latin America and the Caribbean

## Enforcement Priorities

Urgent competition-related issues may be prioritized over ongoing enforcement matters which procedural deadlines are currently suspended.

## Other Considerations

CNDC's telephone services are unavailable until further notice.

## Brazil

### Demarest Advogados

**Bruno Drago**

[bdrago@demarest.com.br](mailto:bdrago@demarest.com.br)

**Daniel Andreoli**

[dandreoli@demarest.com.br](mailto:dandreoli@demarest.com.br)

**Paola Pugliese**

[ppugliese@demarest.com.br](mailto:ppugliese@demarest.com.br)

**Milena Mundim**

[mmundim@demarest.com.br](mailto:mmundim@demarest.com.br)

Competition Authority: CADE – Administrative Council for Economic Defense (<http://en.cade.gov.br/>)

## Merger Review

### New Filings Accepted?

Yes.

### Waiting Period Delays?

No, deadlines for merger review filings will continue to run normally.

Merger filings that require market tests are facing delays due to the fact that it has been difficult for CADE to reach out to market stakeholders and obtain timely answers.

## Investigations/Litigation

### Filings

All filings/submissions are done electronically, through a digital platform. Therefore, no changes in this aspect.

Additionally, the Brazilian Senate approved a draft bill for the suspension, until October 31, 2020, of the characterization as violation against the economic order of the (i) sale of products or services at prices unreasonably below the market price and (ii) the whole or partial termination of business activities without cause (items XV and XVII of § 3 of art. 36 of Law No. 12.529/11 – Brazilian Antitrust Law). This draft bill is now under review and pending approval by the National Congress.

### Delays/Other Considerations

All deadlines that run against defendants in cartel, unilateral conduct and gun-jumping formal probes have been suspended in Brazil, to address issues with the COVID-19 outbreak (similar measures were taken by Judiciary Courts). The decision will not prevent the normal processing of all other types of proceeding in course before CADE, meaning that deadlines in preliminary probes of any type, leniency applications, settlement negotiations and consultation requests, for instance, will continue to run normally.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings are made electronically (which is already the official means), and meetings are held via videoconference (Zoom Meetings).

CADE's Tribunal also remains in operation. On April 15, 2020, it held its first online ruling session. Requests for oral hearing must be formalized by e-mail up to 24 hours before the start of the session and it must be sent by a media file to the Plenary Secretariat. Counsel are given an email and telephone number to be able to intervene in the ruling session and have the right of active participation guaranteed.

## Other Antitrust Issues

### Competitor Collaborations

The Brazilian Senate approved a draft bill proposing exemption for CADE's approval - until October 31, 2020 or as long as the country's state of emergency due to COVID-19 lasts – of cooperation agreements, which normally take the form of the so-called 'associative agreements' (collaboration agreements between competitors), consortia or joint ventures signed as of March 20, 2020. This draft bill is now under review and pending approval by the National Congress.



# Latin America and the Caribbean

CADE has commented on such draft bill, stating that the suggested exemption will not exclude the future assessment and clearance of the exempted transactions by CADE and will not prevent CADE from investigating and punishing conducts and the deals that were not deemed necessary to combat or mitigate the effects arising from the COVID-19 crisis.

One of CADE's Commissioners (Paula Farani) has voiced that she agrees with the type of concern expressed by the National Congress with the proposed draft bill, but it is necessary to be cautious about "opportunistic transactions".

CADE is currently assessing a proposal presented by IBRAC (Brazilian Institute for the Study of Competition, Consumer and Trade laws), suggesting that parties to collaboration agreements have the discretionary right to communicate to CADE the execution of such cooperation agreements.

## Price Gouging

CADE started a preliminary probe on March 18, 2020, to investigate potentially abusive price increases in some medical and pharmaceutical segments, such as drug stores, certain pharmaceuticals, hospitals, laboratories, as well as manufacturers and distributors of alcohol-based hand sanitizers and surgical masks.

Regarding price freezing: the Department of Economic Studies ("DEE") at CADE, following a request from the Legislative Branch, objected to two draft bills (which are under assessment at the National Congress), proposing to freeze prices and set price caps on pharmaceuticals considered essential during COVID-19's outbreak. The economists took the view that such measure would reinforce the non-isonomic treatment and have a negative impact on the supply of pharmaceuticals in a delicate moment of health emergency in Brazil.

The DEE stated that *"supply interruption and price hikes could be an expected effect"* and defended that *"the average price could increase and the price dispersion decrease, which would show that this type of ceiling-price policy can generate tacit collusion and focal points between agents"* (Source of citations: [MLex.com](https://www.mlex.com) — © copyright 2019 MLex Market Insight.)

## Misleading Advertising

There is no statement on this matter, to the extent of our knowledge.

## Enforcement Priorities

CADE is ensuring that it will keep its full functioning, with staff working remotely and meetings and Tribunal sessions held virtually, via online platforms. CADE is prioritizing merger review filings over antitrust investigations.

# Latin America and the Caribbean

Regarding its institutional mission, CADE announces that it will stay vigilant amid the COVID-19 outbreak, to secure that there will not be abuses by companies active in the healthcare and pharmaceutical industries.

## Other Considerations

N/A

## Chile

### Claro & Cia., Abogados

**José Miguel Huerta**

[jmhuerta@claro.cl](mailto:jmhuerta@claro.cl)

**Santiago Bravo**

[sbravo@claro.cl](mailto:sbravo@claro.cl)

#### Competition Authority:

- Competition Agency (*Fiscalía Nacional Económica*) (<https://www.fne.gob.cl/>)
- Competition Court (*Tribunal de Defensa de la Libre Competencia*) ([Competition Court](#))

### Merger Review

#### New Filings Accepted?

Yes. However, the Competition Agency has stated parties to a transaction should evaluate the need to submit a new filing and restrict them to urgent and essential cases.

#### Waiting Period Delays?

No. However, the Competition Agency has acknowledged current circumstances may hinder its ability to gather and review the information needed to evaluate and approve a transaction during phase 1.

# Latin America and the Caribbean

## Investigations/Litigation

### Filings

Complaints and claims are being accepted by both the Competition Agency and the Competition Court.

### Delays/Other Considerations

Most judicial deadlines, terms to submit evidence and hearings are suspended, either by law or by instruction of the Competition Court. Investigations by the Competition Agency are not suspended, though they are being handled by electronic means of communication.

## Communications With the Regulator

### How are filings made/meetings handled?

Submissions and communications with the Competition Court and the Competition Agency are handled through digital means of communications. This includes all submissions, meetings and queries in the case of the Competition Agency.

## Other Antitrust Issues

### Competitor Collaborations

On April 3, 2020, the Competition Agency published a statement stressing the guiding principles for collaboration amongst competitors under Chilean antitrust law:

- The State of Catastrophe declared by the Chilean Government does not contemplate exemptions for competition law or its enforcement.
- However, unlike cartels, collaboration between competitors may be lawful in certain circumstances:
  - the collaboration generates efficiencies;
  - said efficiencies outweigh the risks to competition it produces;
  - measures are taken to restrict the interaction between competitors to a minimum; and
- there is no alternative mechanism that achieves these efficiencies while generating less risk to competition.
- The State of Catastrophe may require certain degree of collaboration amongst competitors to produce and distribute goods and services.
- Firms must carefully self-assess whether collaboration with competitors meets the principles and criteria outlined above, as there is no mandatory procedure for the review or approval of these ventures under Chilean competition law.
- Finally, the Competition Agency stresses it will remain vigilant of any possible infringement to competition law, including cartels or abusive behavior.

# Latin America and the Caribbean

In addition, on April 7, 2020, the Competition Court issued court measure No. 21/2020. Its main takeaways are the following:

- The Competition Court acknowledged the current crisis may disrupt the production, distribution and commercialization of certain goods and services. Nevertheless, the Court stressed that competition law remains fully applicable during times of crisis.
- Under Chilean competition law, the Court may review through a consultation procedure whether certain actions or agreements comply with competition law. Note this non-contentious procedure is not applicable for the review of mergers or concentrations; merger control review is performed by the Competition Agency.
- Through the referred court measure, the Competition Court stated that it may allow actions or agreements under review in a consultation procedure to be implemented or executed pending said review.
- This possibility will be especially available for actions or agreements that generate efficiencies and allow to maintain the supply chain of crucial goods or services, the continuity of transport services, the provision of medical supplies; amongst others that may be deemed essential.

## Price Gouging

Abusive behavior in the context of a crisis will likely attract enforcement action and reputational damage. It may also lead to civil claims and possibly direct regulation. This could be the case even if market power is temporary (i.e., obtained as a consequence of present extraordinary circumstances). Excessive pricing enforcement in Chile has been traditionally rare. However, present circumstances and enforcement action in other jurisdictions during the crisis could produce a shift. Firms should be even more vigilant of excessive pricing in the context of a crisis.

## Misleading Advertising

So far Chilean Competition Authorities have not made any public statements or taken enforcement action regarding misleading advertisement and COVID-19.

## Enforcement Priorities

Considering the public statements and court measures referenced above, the main focus of the Chilean Competition Authorities main focus so far has been on competitor collaboration during the COVID-19 crisis.

## Other Considerations

N/A

## Colombia

### Brigard & Urrutia

**Alejandro García de Brigard**  
[agarcia@bu.com.co](mailto:agarcia@bu.com.co)

**Nicolás Cardona**  
[ncardona@bu.com.co](mailto:ncardona@bu.com.co)

Competition Authority: Superintendence of Industry and Commerce (“SIC”) (<https://www.sic.gov.co/en/about-us>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

Yes. The SIC has determined that merger control procedures for which the authority has all required information to be able to take a decision, the procedure will continue until the final decision.

However, other transactions where the authority would issue an RFI, or where a transaction is in phase 1 review the authority has the intention to move to phase 2, the terms are suspended and therefore the waiting period is interrupted.

#### Investigations/Litigation

##### Filings

All terms for investigations are suspended, so at this point no documents may be filed before the authority.

There is an exception, which is that the authority may conduct new investigations related to products that are necessary within the context of the emergency.



# Latin America and the Caribbean

## Delays/Other Considerations

All ongoing investigations not related to products that are necessary within the context of the emergency are suspended until the National State of Emergency is lifted, so all investigations will be delayed.

## Communications With the Regulator

### How are filings made/meetings handled?

Within the exceptions on the suspension of terms explained above, filings to the SIC must be done electronically.

Although the offices of the authority are closed, most officials are under home office, so it is possible to communicate with them through telephone or videoconferencing.

## Other Antitrust Issues

### Competitor Collaborations

Under Colombian law collaboration agreements among competitors are not subject to previous review or approval and are therefore subject to a potential post-review where the SIC may investigate and determine if the agreement may have anticompetitive effects.

However, the Colombian Government has passed a Decree specific for the cargo transportation industry whereby a special committee made up of different relevant authorities may approve agreements in this industry that under the normal antitrust regime could be considered illegal, if the agreement creates synergies and efficiencies in the industry during the crisis, especially for the supply of goods that are indispensable for the general welfare of the population.

### Price Gouging

Although not within the antitrust powers, the Government has issued a list of 26 basic products that will be subject to price monitoring, as a first step to possible price controls. The National Administrative Department of Statistics (“**DANE**”) and the SIC (under its consumer protection powers) will have the power to conduct this monitoring to avoid price speculation and prevent monopolistic behavior that may occur during this period.

The products to be monitored are conventional and specialty protective masks, gloves, alcohol based disinfectant solution or gel, and some pharmaceutical products. Also included are food and non-alcoholic beverages such as: dry rice, long-life milk, refined sugar, cheese, sunflower oil, green peas, onions, black potatoes, creole potatoes, eggs, oranges, personal hygiene products.

The decision orders producers, distributors and commercialization chains to provide the price data to the DANE, and the entity will be in charge of making a follow-up report every five days, which will be delivered to the SIC and the ministries in charge, to carry out the surveillance and control actions.

### Misleading Advertising

The SIC, within its consumer protection powers, has issued an order to all traditional retail and e-commerce platforms not to use the terms “Coronavirus”, “COVID” or “COVID-19” in any advertising, so as to ensure that the public is not misled to believe that any product has the ability to prevent, treat or cure COVID-19.

### Enforcement Priorities

As seen by the exceptions included by the SIC in the suspension of procedures, the current enforcement priority is related to products and services related to the mitigation of the current emergency.

### Other Considerations

Other powers of the SIC regarding consumer protection, IP and Data Protection are currently limited to matters that are related to the COVID-19 emergency.

## Curacao

### VanEps Kunneman VanDoorne

**Tjarda Tazelaar**  
[tazelaar@ekvandoorne.com](mailto:tazelaar@ekvandoorne.com)

**Sixiënne Jansen**  
[sjansen@ekvandoorne.com](mailto:sjansen@ekvandoorne.com)

Competition Authority: Fair Trade Authority Curacao (“**FTAC**”) (<https://ftac.cw/en/>)

**Merger Review**  
**New Filings Accepted?**  
Yes.

**Waiting Period Delays?**  
No, however we expect that the Fair Trade Authority Curacao might not always meet the regular service standards.

**Investigations/Litigation**  
**Filings**

Paper filings will not be accepted for the time being and parties should submit any document with the FTAC by emailing it to [info@ftac.cw](mailto:info@ftac.cw).

**Delays/Other Considerations**  
The FTAC can be reached for inquiries by telephone (+59994610067) and for tips, complaints and signals by using this automatic [form](#).

**Communications With the Regulator**  
**How are filings made/meetings handled?**

All filings can continue to be done by e-mail ([info@ftac.cw](mailto:info@ftac.cw)). The requirement to also submit original copies of a filing has been suspended until further notice.

## Other Antitrust Issues

### Competitor Collaborations

The FTAC did not publish any official statements in relation with COVID-19, but the FTAC recognizes a temporary need for competitors to collaborate. The regular cartel and competitor collaboration regulations will remain into force. The FTAC is currently discussing with associations on the collaboration of its members to ensure fair trade is upheld in these collaborations.

### Price Gouging

The government of Curacao issued a Ministerial Decree (P.B. 2020, no. 22, only available in Dutch) which limits the profit margins on the prices of retail businesses in their sales to either other retailers (15% and consumers (25%) for the following products: (i) latex gloves; (ii) hand sanitizer, (iii) disinfecting sprays, (iv) anti-bacterial wipes and (v) cleaning alcohol.

Also, there is a similar regulation in place concerning the maximum profit margins on the sale of fruits and vegetables with a lot of vitamin C to other retailers (15%) or consumers (45%).

### Misleading Advertising

There are no statements made by the FTAC in this regard.

### Enforcement Priorities

There are no statements made by the FTAC in this regard.

### Other Considerations

The office of the FTAC is closed as of March 30, 2020, until at least Monday April 27, 2020 due to the Lock Down imposed by the government of Curacao.

## Ecuador

### Pérez Bustamante & Ponce

**Diego Pérez Ordóñez**  
[dperez@pbplaw.com](mailto:dperez@pbplaw.com)

Competition Authority: Superintendencia de Control del Poder de Mercado (<https://www.scpm.gob.ec/>)

#### Merger Review

##### New Filings Accepted?

Yes.

##### Waiting Period Delays?

Yes. On March 16, 2020, the competition agency decided to stop the clock of all its proceedings, including merger reviews, as well as for the calculation of filing deadlines. It is nevertheless worth pointing out that the general obligation of notification and authorization, as well as the consequences derived from its infringement, has not changed, only its deadline has. Undertakings may still file operations during the suspension via e-mail, but the clock will only resume after the health emergency.

#### Investigations/Litigation

##### Filings

Paper filings are not accepted for the time being. Parties may file any request or document via e-mail only.

##### Delays/Other Considerations

On March 16, 2020, the competition agency decided to stop the clock of all its proceedings. Complaints can still be filed but the clock will only start (or resume) after the health emergency.



## Communications With the Regulator

### How are filings made/meetings handled?

Parties may file any request or document via e-mail only and will have to submit them physically after the health emergency. The competition agency's offices are closed, and its proceedings are suspended, although it keeps available to the public via digital means.

## Other Antitrust Issues

### Competitor Collaborations

The authority has not released any statement on the matter. The Ecuadorian competition law allows collaborations, without need of prior authorization, when they are capable of improving the production, commercialization and/or distribution of goods and services, as well as when they facilitate R&D (as long as they are not unduly restrictive).

### Price Gouging

On March 29, 2020, the competition agency published a [press release](#) on its website reiterating that:

- Any change on prices must respond to the market dynamic and to the individual and independent decisions of the economic players, not to anticompetitive agreements or to guilds' recommendations.
- Manufacturers, suppliers, and vendors cannot take advantage of the emergency in order to increase their margins by means of unlawfully extracting the consumer surplus or in prejudice of the state's resources.

These declarations were added to its 'exhortation' made in a [similar note](#) on March 1, 2020.

Besides that, no further statements have been made by any government office nor new legislation has been enacted.

### Misleading Advertising

The authority has not released any statement on the matter.

### Enforcement Priorities

The authority has not released any statement on the matter nor has intervened in the market.

# Latin America and the Caribbean

## Other Considerations

On occasion of a [recent complaint for an allegedly excessive pricing on the public procurement of N95 face masks](#), the competition agency has insisted that, despite not being competent for regulating prices, it does have competence for investigating and sanctioning agreements among suppliers and vendors who rig public bids

## Mexico

### Basham, Ringe y Correa, S.C.

**Amílcar Peredo**

[peredo@basham.com.mx](mailto:peredo@basham.com.mx)

**Competition Authority:** Comisión Federal de Competencia Económica (“**COFECE**”) Federal Economic Competition Commission  
Instituto Federal de Telecomunicaciones (“**IFETEL**”) Federal Telecommunication Institute

## Merger Review

### New Filings Accepted?

Yes.

### Waiting Period Delays?

No, COFECE will issue the resolutions of the merger control procedures faster if the concentration is focused on mitigate the effects of COVID-19.

## Investigations/Litigation

### Filings

Paper filing, the submission can be made in the regular schedule Monday to Friday from 8-14 hrs. and 15-16:30 hrs., the date of the filing stamp will be dated as of May 6, 2020 due the second suspension period published April 15, 2020 by the COFECE.

The Court and Tribunal will be closed until May 5, 2020 according to the statement from the Supreme Court.

# Latin America and the Caribbean

## Delays/Other Considerations

Consider that there is a second suspension period from April 20-30, since after that date a long weekend follows, the first working day is May 6, 2020. The suspension applies to all the procedures such as investigations: cartels, abuse of dominance and illicit concentrations their periods of the investigations and depositions are suspended.

The following procedures are the exception to this suspension: notification of concentrations, leniency program, procedures regarding public bids, consultations and other specific process in the investigation of anticompetitive practices.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings for mergers are 100% electronic, other than that are paper filing, officials are using phone calls to communicate with interested parties, no meetings are hold during this suspension period, even commissioners are having virtual meetings.

## Other Antitrust Issues

### Competitor Collaborations

COFECE released a statement where established that in the context of the health emergency, agents can enter into collaborations with any other agent even though is a competitor as long as the agreements maintain or increase supply, meet demands, protect supply chains and avoid shortages and or hoarding of goods.

### Price Gouging

COFECE has no faculties to pursue this type of conducts.

PROFECO, Procuraduria Federal del Consumidor - Office of the Federal Prosecutor for the Consumer is the authority that pursue price gouging under an emergency declaration.

### Misleading Advertising

COFECE has no faculties to pursue this type of conducts. The authority is PROFECO.

### Enforcement Priorities

Health industry such as health services, medicines, healing material and other closely related will be constantly watched by COFECE.

# Latin America and the Caribbean

## Other Considerations

COFECE has released two fair warning to the sugar and alcohol industry and real state association *Asociación Nacional de Desarrolladores Inmobiliarios*. COFECE tries to halt any possible violation of the law in this emergency, so it is highly probable to see several of these types of warnings.

## Nicaragua

### Alvarado y Asociados

#### Claraliz Oviedo

- [coviedo@alvaradoyasociadoslegal.com](mailto:coviedo@alvaradoyasociadoslegal.com)
- [gmalvara@alvaradoyasociadoslegal.com](mailto:gmalvara@alvaradoyasociadoslegal.com)

Competition Authority: Procompetencia (<https://procompetencia.gob.ni/>)

## Merger Review

### New Filings Accepted?

Yes.

### Waiting Period Delays?

No, all operations from authorities remain unaltered, at this time.

## Investigations/Litigation

### Filings

Yes, all operations from authorities remain unaltered, at this time.

### Delays/Other Considerations

No.

# Latin America and the Caribbean

## Communications With the Regulator

### How are filings made/meetings handled?

Please note that there is no alteration due to COVID-19 in Nicaragua. All processes remain the same, considering provisions already established in the Law.

## Other Antitrust Issues

### Competitor Collaborations

Please note that there is no alteration due to COVID-19 in Nicaragua.

### Price Gouging

Please note that there is no alteration due to COVID-19 in Nicaragua.

### Misleading Advertising

Please note that there is no alteration due to COVID-19 in Nicaragua, no relevant information to report on this part.

### Enforcement Priorities

Please note that there is no alteration due to COVID-19 in Nicaragua.

### Other Considerations

Please note that there is no alteration due to COVID-19 in Nicaragua. All processes remain the same, considering provisions already established in the Law.



## Panama

### Arias, Fábrega & Fábrega

**Sofia J. Cohen**  
[scohen@arifa.com](mailto:scohen@arifa.com)

**Estif Aparicio**  
[eaparicio@arifa.com](mailto:eaparicio@arifa.com)

Competition Authority: ACODECO (<http://www.acodeco.gob.pa/>)

#### Merger Review

##### New Filings Accepted?

Not at this moment.

##### Waiting Period Delays?

N/A

#### Investigations/Litigation

##### Filings

Courts are closed and all hearings, paper filing or electronic filings cannot be delivered.

##### Delays/Other Considerations

Judicial terms are suspended until April 30, 2020 as well as the terms related to administrative proceedings are suspended until April 30, 2020.

#### Communications With the Regulator

##### How are filings made/meetings handled?

ACODECO is conducting antitrust administrative investigation for alleged antitrust conduct sending letters to the economic agents in order to collect documents that shall be sent electronically to a specific email. Also, the officers are doing conference calls, no personal meetings in order to prevent COVID-19 contagious.

## Other Antitrust Issues

### Competitor Collaborations

In Panama we have the Guidelines For Licit Collaboration Between Competitors that might be used by economic agents in order to maximize the logistic chain and other licit collaboration agreements to facilitate rapid decisions and to enable businesses to support the crisis response efforts. But the ACODECO has not made a specific statement encouraging collaboration between competitors based on such guidelines.

### Price Gouging

Our Government have declared states of emergency giving the government the power to control the price of essential goods.

On March 13, 2020, the Ministry of Commerce and Industry issued an Executive Decree ruling that 1) for 3 months, in retail trade, a 23% of maximum gross marketing margin, per unit, on the retail price in the following products: a) Disposable masks, b) Antibacterial products, c) Alcohol for external use, d) Liquid or bar antibacterial soaps, e) Household disinfectants, f) Tissues, g) Vitamin C, and h) Wet cloths. 2) Forces the seller to limit the maximum number products per person. 3) Establishes that ACODECO shall supervise and punish those who fail to comply with Executive Decree No. 114 of 2020.

### Misleading Advertising

No special ruling given by ACODECO or the Ministry of Health during this COVID-19 Crisis in order to prevent misleading advertising. However, in Panama we have regulations related to misleading advertising in place.

### Enforcement Priorities

The officials of ACODECO are working and receiving by telephone or online any complaint related to antitrust conducts as well as any complaint related to any practice that infringe the regulation related to the price control of the essential goods mentioned above. Officials are taking all necessary steps to investigate such conducts and to enforce the antitrust law and consumer protection law.

### Other Considerations

ACODECO has a direct telephone line in order to submit any antitrust conduct or any anti-consumer practice.

## Paraguay

### Peroni Sosa Tellechea Burt & Narvaja

**Eduardo Alfaro**

[eduardo.alfaro@pstbn.com.py](mailto:eduardo.alfaro@pstbn.com.py)

**Santiago Bofferon**

[santiago.bofferon@pstbn.com.py](mailto:santiago.bofferon@pstbn.com.py)

Competition Authority: National Competition Commission (*Comisión Nacional de la Competencia – CONACOM*)

#### **Merger Review**

##### **New Filings Accepted?**

No.

##### **Waiting Period Delays?**

No. By Resolution D/AD Number 24, CONACOM Authority established the suspension of all the terms/deadlines during the quarantine period established by the Executive Power; except for the terms/deadlines which are related to investigations on Dominant Position abuse and Prohibited Agreements.

#### **Investigations/Litigation**

##### **Filings**

Nonew filings, as mentioned above. Also, CONACOM has not yet implemented an electronic filing system.

##### **Delays/Other Considerations**

N/A

#### **Communications With the Regulator**

##### **How are filings made/meetings handled?**

CONACOM is not in full operation until further notice (for the reason mentioned before).

# Latin America and the Caribbean

## Other Antitrust Issues

### Competitor Collaborations

Yes, in the context of COVID-19 pandemic, by Executive Power Decree penalties have been established for breach of the duty to collaborate with the CONACOM Authority in case of required investigations.

### Price Gouging

The Government issued a Resolution through the Ministry of Health which establishes "reference prices" for "necessary goods" such as: face masks, gloves, disinfecting products, etc.

### Misleading Advertising

The Paraguayan Government is coordinating with CONACOM Authority to address any issue of anti-competitive conduct and misleading advertising related to COVID-19.

### Enforcement Priorities

The CONACOM Authority's priority is to monitor and investigate cases of abuse of dominant position by fixing prices of essentials products to fight COVID-19. However, the human and financial resources of CONACOM are limited.

### Other Considerations

Call center services offered by the CONACOM will be unavailable until further notice.

## Peru

### Estudio Oleachea

**Martin Serkovic**

[martinserkovic@esola.com.pe](mailto:martinserkovic@esola.com.pe)

#### Competition Authority:

- National Institute for the Defense of Competition and the Protection of Intellectual Property – Indecopi (<https://www.indecopi.gob.pe/indecopi>)
- Commission of Free Competence – Indecopi (<https://www.indecopi.gob.pe/clc-que-hacemos>)
- Unfair Competition Bureau – Indecopi (<https://www.indecopi.gob.pe/ccd-que-hacemos>)
- Tribunal on Defense of Competition and Intellectual Property – Indecopi (<https://servicio.indecopi.gob.pe/buscadorResoluciones/tribunal.seam>)

### Merger Review

#### New Filings Accepted?

Despite the fact that Emergency Decree N° 13-2019, which establishes a regime of previous control of mergers and acquisitions (published in the official gazette “El Peruano” on November 19, 2019), was scheduled to enter into force on August 20, 2020, the Government approved, among others, the delegation of competence to the Executive Power to rule on certain matters. This includes the extension of the entering into force of this regulation due to the impact of COVID-19, as well as the modification of this regime (Statement of Reasons).

Therefore, currently, concentration operations are not subject to any previous control in Peru, except from concentrations regarding the electric sector (Law N° 26876, Antimonopoly and Ant-oligopoly Law of the Electricity Sector), that must obtain prior authorization by Indecopi.

To this regard, Indecopi has enabled a [link](#) (Virtual Desk) so that citizens can present their requests, complaints, written allegations, among others electronically; as long as these are formally submitted in physical within the three following business days once the quarantine ends and Indecopi opens its premises.



Thus, such requests may not be processed until Indecopi reopens and continues with their normal activities, this is, once the quarantine restrictions are lifted.

## **Waiting Period Delays?**

No.

## **Investigations/Litigation**

### **Filings**

Paper filings will not be accepted during the quarantine and parties should use the electronic filing system. Such filings must also be formally submitted in physical within the three following business days once the quarantine ends and Indecopi opens its premises.

Thus, these filings or requests may not be processed, except from virtual services for renewal and search of trademarks, as well as the “Virtual Claim” (Consumer protection) service that will continue to receive information.

No in-person hearings will take place.

## **Delays/Other Considerations**

Pursuant to Emergency Decree N° 26-2020, the deadlines to process administrative procedures were suspended for 30 business days, since March 16, 2020.

To this regard, Indecopi released a communication informing that the deadlines to process ongoing administrative procedures (claims, complaints, registries) were suspended from March 16 to May 6, 2020.

## **Communications With the Regulator**

### **How are filings made/meetings handled?**

Electronically, but such filings must be formally submitted in physical within the three following business days once the quarantine is lifted.

## **Other Antitrust Issues**

### **Competitor Collaborations**

No.

# Latin America and the Caribbean

## Price Gouging

Indecopi has released a communication reminding consumers that, according to the Peruvian legislation, it has no competence to regulate market prices of any product. However, such entity can apply administrative sanctions to suppliers that do not respect the prices indicated in the products or that agree on price fixing.

In this sense, article 4 of Legislative Decree N° 757, Law for the Growth of the Private Investment, establishes that the prices are the result from the offer and demand, respecting the competition processes, with no exemptions than specific laws for specific matters. However, this law does not establish competence for any control over prices within a state of emergency.

Indecopi has stated that it cannot control the prices from the market. In addition, any other regulation proposal or project norm seeking a control of prices must respect the legislation and the constitutional aspects related to the Peruvian economic model.

Therefore, although article 234 of the Peruvian Criminal Code states that the producer, manufacturer or merchant that sells products officially considered of primary necessity at prices higher than those established by the competent authority, will be punished with a custodial sentence of one to three years and with 90 to 180 days-fine; in reality this penalty would be difficult to apply as there is no official price list of the necessary goods.

## Misleading Advertising

Indecopi has released a [communication](#) on March 16, when the quarantine just started, encouraging citizens, especially influencers, social media managers and community managers to use digital channels with responsibility regarding the advertisements related to essential goods and products, as well as medicines and sanitary products during the State of Emergency and the mandatory social isolation given by the Government to prevent the spread of COVID-19. In this order of ideas, Indecopi asked professionals and personalities related to the advertisement industry to be careful when promoting a product through their social media and digital platforms.

On the other side, Indecopi encouraged consumers to stay informed about essential products. Indecopi is constantly monitoring the content released by influencers within their social media channels, especially those related to food, sanitary and medicine products. In this regard, it has issued a communication stating that it will be vigilant in monitoring anticompetitive conduct regarding essential or necessary goods, pharmaceuticals, banking services, transport, among others (e.g. misleading advertising, false advertising). In case Indecopi finds any infraction regarding this matter it could impose a penalty up to S/. 3' 000 000, almost USD 1,000,000.

# Latin America and the Caribbean

For this purpose, Indecopi has enabled an electronic form in which citizens can report any anticompetitive conducts. Moreover, citizens may also report such anticompetitive conducts through the following phone numbers: (01) 224-7777 for Lima and 0-800-4-4040 for free calls from provinces, from 8:30 a.m. to 5:30 p.m.

Currently, Indecopi has disciplined 46 companies regarding misleading advertising related to products that supposedly had therapeutic and preventive properties against COVID-19. Three advertisements were removed from the market: two of them promoted COVID-19 treatment products and one promoted a disinfectant that was deemed to eliminate the virus from the environment.

## Enforcement Priorities

Indecopi issued a communication stating that it continues to coordinate with other State entities to provide solutions to consumer problems through business associations and through the companies that provide essential goods and services, urging them to apply good practices in order to comply with the normal supply of products and services during the national emergency.

## Other Considerations

The [electronic form](#) created by Indecopi may be used to report unfair competition and antitrust practices, as well as activities that may affect consumers.

Citizens may also report such conducts through the following phone numbers: (01) 224-7777 for Lima and 0-800-4-4040 for free calls from provinces, from 8:30 a.m. to 5:30 p.m.

Queries, doubts and complaints may be also submitted to the institutional e-mail address: [sacreclamo@indecopi.gob.pe](mailto:sacreclamo@indecopi.gob.pe).

With respect to the Telecommunications sector, Osiptel is the regulator in charge of the revision of cases related to competition matters. This regulator suspended all administrative procedures, as well as the legal due-dates of such procedures and the personal physical attention from its premises.

In addition, any complaints and requirements related to telecommunication services could be submitted by social media networks, emails and telephone (Fonoayuda 1844).

## Uruguay

### Guyer & Regules

**Juan Manuel Mercant**  
[mmercant@guyer.com.uy](mailto:mmercant@guyer.com.uy)

**Jonathan Clovin**  
[jclovin@guyer.com.uy](mailto:jclovin@guyer.com.uy)

**Federico Carbajales**  
[fcarbajales@guyer.com.uy](mailto:fcarbajales@guyer.com.uy)

**Renato Guerrieri**  
[reguerrieri@guyer.com.uy](mailto:reguerrieri@guyer.com.uy)

#### Competition Authority:

- For all unregulated markets (<http://competencia.mef.gub.uy/>)
- Banking and Financial markets (<https://www.bcu.gub.uy/Paginas/Default.aspx>)
- Energy & Water markets (<https://www.gub.uy/unidad-reguladora-servicios-energia-agua/>)
- Telecom markets (<https://www.gub.uy/unidad-reguladora-servicios-comunicaciones/>)

### Merger Review

#### New Filings Accepted?

Yes, and they have to be made in person. While the new prior authorization regime just came into force, the regulator has yet to publish the new notification form.

#### Waiting Period Delays?

Not officially. But in practice we have noticed that the regulator is taking longer than usual to reply to queries on non-priority mergers. We suggest being proactive and contacting the regulator for better results.

# Latin America and the Caribbean

## Investigations/Litigation

### Filings

Yes, submissions still have to be made in person at the regulator. However, the regulator sends its resolutions and reports electronically to those parties that prefer this way of dealing.

Consultations on progress of ongoing cases can also be made electronically at [competencia@mef.gub.uy](mailto:competencia@mef.gub.uy).

### Delays/Other Considerations

No changes, officially. But in practice we have noticed that the regulator is taking longer than usual to reply to queries on non-priority cases.

We suggest being proactive and contacting the regulator for better results.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings to the regulator still have to be made in person.

The regulator is taking measures to reduce meetings in person (e.g. sending its resolutions and reports via email and accepting consultations on progress in cases via email too).

## Other Antitrust Issues

### Competitor Collaborations

Unfortunately, unlike in several other jurisdictions, the regulator has not published anything that would in any way reduce the risk of violating the per se rule against hardcore cartels in light of the current COVID-19 situation.

Therefore, any cooperation or agreement among competitors on price, output, market sharing or participation in tenders, even if the ultimate goal is to participate in the fight against COVID-19, could be considered per se illegal and trigger the usual fines.

We are not aware of any efforts from the regulator to create a temporary exception and would advise any client facing such questions to raise them with us, the regulator, or the government before taking any action.



# Latin America and the Caribbean

## Price Gouging

On April 9, 2020, the government updated the price list for a basket of basic consumer goods on its [website](#). The list publishes minimum, maximum, and average prices for several basic consumer goods (all food), based on data collected from the country's main supermarket chains by the Service of Information on Prices to Consumers. This is just a survey to give customers a reference of what the average price for basic food in the country is and is meant to curb excessive pricing.

The list is, however, merely indicative and non-binding on businesses. At best, it might be used as an indicator of market prices in a case for abuse of dominant position based on an excessive pricing theory of harm.

## Misleading Advertising

No COVID-19 specific measures taken yet beyond the pre-existing laws already in place.

## Enforcement Priorities

The regulator has not published any new enforcement priorities specific to COVID-19.

## Other Considerations

Consultations on ongoing cases can be sent via email to the regulator at [competencia@mef.gub.uy](mailto:competencia@mef.gub.uy).

## Canada

### Blake, Cassels & Graydon LLP

**Brian Facey**

[brian.facey@blakes.com](mailto:brian.facey@blakes.com)

**Micah Wood**

[micah.wood@blakes.com](mailto:micah.wood@blakes.com)

#### Competition Authority:

- Competition Bureau (<https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/home>)
- Competition Tribunal (<https://www.ct-tc.gc.ca/en/home.html>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

No, however the Bureau has acknowledged that it may have difficulties meeting published service standards.

Parties engaged in complex mergers are encouraged to contact case teams and management in the Merger Directorate. If service standards cannot be met, the Bureau will make efforts to communicate realistic timelines to the parties.

### Investigations/Litigation

#### Filings

Tribunal - paper filings will not be accepted for the time being and parties should use the electronic filing system.

In-person hearings are temporarily suspended until at least May 15, 2020 but the Tribunal will hear urgent matters by teleconference.

## Delays/Other Considerations

The Commissioner [stated](#) that investigations involving face-to-face interviews with Immunity/Leniency applicant witnesses, the operationalization of solicitor-client protocols, meetings with complainants, and plea or other settlement negotiations may suffer delays.

The running of all timelines in the Competition Tribunal Rules which establish periods of time within which a step must be taken in a Tribunal proceeding is suspended, unless the matter is urgent, or parties agree to the matter advancing during the from April 15, 2020 until May 15, 2020 (the “**Suspension Period**”). Statutory deadlines for commencing applications under the Competition Act continue to apply during the Suspension Period.

For parties with hearings and other procedural steps schedule to take place during the Suspension Period, the Tribunal will reach out to counsel and the parties will set up, if and as needed, a case management conference to determine next steps.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings to the Bureau may be made electronically. The Bureau is replacing hard copy letters with an e-mail from the signatory.

The Tribunal remains in operation, but its premises are closed until further notice. Paper filings will not be accepted for the time being and parties should use the electronic filing system. In-person hearings are temporarily suspended but the Tribunal will hear urgent matters by teleconference. The Tribunal will also hear other matters if all parties consent to it and agree to have the matter heard by telephone or video conference.

## Other Antitrust Issues

### Competitor Collaborations

The Bureau released a statement on April 8, 2020 recognizing that competitor collaborations of “limited duration and scope” may be required to ensure the supply of products and services “that are critical to Canadians” during these exceptional times. The Bureau signaled that it will “generally refrain” from scrutinizing temporary business collaborations undertaken for those purposes that are “executed in good faith and do not go further than what is needed”.

For firms wishing to obtain greater certainty, the Bureau has created a team to assess the proposed collaborations on the basis of information outlined in the Bureau’s statement and provide informal guidance to facilitate rapid decisions to enable businesses to support the crisis response efforts.

## Price Gouging

Several provinces have declared states of emergency giving the government the power to control the price of essential services.

On March 28, 2020, the Ontario Government has issued an [emergency order](#) that retail businesses and individuals in Ontario cannot charge unfair prices for “necessary goods” including: (i) masks and gloves; (ii) non-prescription medications for treating coronavirus symptoms; (iii) disinfecting agents, and (iv) personal hygiene products.

## Misleading Advertising

[Health Canada](#) is coordinating with other government departments such as the [Competition Bureau](#) to address the issue of false and misleading claim related to COVID-19.

The Commissioner has [stated](#) that the Bureau will be vigilant in monitoring anti-competitive conduct (e.g. deceptive marketing for products claiming to prevent the virus).

## Enforcement Priorities

The Commissioner [emphasized](#) that Canadian competition law accommodates pro-competitive collaborations to support delivery of goods and services, and the Bureau will take a reasonable and principled approach to enforcement.

Urgent competition-related issues may be prioritized over ongoing enforcement matters (e.g. products that claim to prevent/treat COVID-19).

## Other Considerations

Telephone services offered by the Bureau will be unavailable until further notice (Information Centre, Whistle-blowing Initiative, Tip Line, Merger Intelligence and Notification Unit, and Media Relations line).

## USA, Federal

### Foley Hoag LLP

**Lisa C. Wood**

[lwood@foleyhoag.com](mailto:lwood@foleyhoag.com)

**Austin A.B. Ownbey**

[aownbey@foleyhoag.com](mailto:aownbey@foleyhoag.com)

#### Competition Authority:

- Federal Trade Commission (<https://www.ftc.gov/>)
- Department of Justice, Antitrust Division (<https://www.justice.gov/atr>)

### Merger Review

#### New Filings Accepted?

Yes.

#### Waiting Period Delays?

No, there has been no delay or extension of the statutory waiting periods.

The FTC and DOJ did initially suspend the granting of early termination for all transactions, but the agencies subsequently resumed granting early terminations again on March 30.

### Investigations/Litigation

#### Filing

The FTC and DOJ have stopped accepting all paper filings and have implemented a temporary e-filing system for the submission of Hart-Scott-Rodino premerger notification filings.



## Delays/Other Considerations

The FTC and DOJ announced that they would seek extensions for all timing agreements that had been signed with parties whose transactions are under investigation and it appears that the FTC is asking all merging parties for 120 days to review materials submitted after the parties have certified compliance with second requests.

The FTC and DOJ remain fully operational and generally have not curtailed the scope and thoroughness of their investigations due to current limitations caused by the crisis. However, both agencies have expressed a willingness to consider unique circumstance on a case-by-case basis and will adjust timing and work to reduce burdens on companies and individuals as appropriate.

In addition, the DOJ has submitted to Congress proposed legislation that would, among other things, toll the deadlines in antitrust merger reviews and criminal enforcement programs for short periods of time until after the termination of the national emergency declared by the President on March 13, 2020.

## Communications With the Regulator

### How are filings made/meetings handled?

Virtually all FTC and DOJ employees are now working remotely and all communications are by phone or email.

**Meetings:** Almost all internal and all external meetings will be handled by telephone or videoconference, including Front Office and Commission meetings.

## Other Antitrust Issues

### Competitor Collaborations

The FTC and DOJ have established an expedited antitrust review process for conduct and collaborations aimed at protecting health and safety during the COVID-19 pandemic.

The DOJ completed its first response to a business review letter pursuant to the new expedited review procedure and will not challenge collaborative efforts of McKesson Corporation, Owens & Minor Inc., Cardinal Health Inc., Medline Industries Inc., and Henry Schein Inc. (together, Medical Supplies Distributors) to expedite and increase manufacturing, sourcing, and distribution of personal-protective equipment (PPE) and coronavirus-treatment-related medication.

The FTC and DOJ also issued a joint statement affirming the importance of competition in American labor markets, especially with regards to workers on the front lines of the COVID-19 pandemic—including doctors, nurses, first responders, and other essential service providers such as those who work in grocery stores, pharmacies, and warehouses.

### Price Gouging

The DOJ announced that it is focused on preventing hoarding and price gouging for critical supplies during the crisis. To combat this misconduct, the President issued an Executive Order, which prohibits hoarding of designated items, and the Attorney General has created the COVID-19 Hoarding and Price Gouging Task Force.

### Misleading Advertising

The FTC and the FDA have sent multiple warning letters to sellers of scam COVID-19 treatments, companies making unsupported claims that their products can treat or prevent COVID-19, and to VoIP service providers and other companies ‘assisting and facilitating’ illegal COVID-19-related telemarketing calls.

The FTC has also provided a set of tips for the public on how to avoid Coronavirus Scams.

### Enforcement Priorities

**Prioritization:** The DOJ is focusing their law enforcement activities on the following categories of offenses related to the COVID-19 crisis: frauds and other illegal schemes, sale of fake drugs and cures, malicious hoaxes or threats that target specific individuals or the general public, hoarding medical supplies or devices beyond what is reasonably needed on a daily basis, or for the purpose of selling them in excess of prevailing market prices, and conspiracies between individuals or businesses to fix prices, rig bids, or allocate markets with respect to COVID-19 material.

### Other Considerations

N/A

## USA, Arizona

### Snell & Wilmer

Colin Ahler

[cahler@swlaw.com](mailto:cahler@swlaw.com)

Competition Authority: Arizona Attorney General's Office (<https://www.azag.gov/>)

#### Merger Review

##### New Filings Accepted?

No filing regime.

##### Waiting Period Delays?

N/A

#### Investigations/Litigation

##### Filings

Complaints may be filed online, by email, by fax, or by regular mail to the Office of the Arizona Attorney General (AG). Although the AG's office remains open to the public, the AG has encouraged that contact be made via phone or email whenever possible.

##### Delays/Other Considerations

Several Arizona courts have restricted operations, including in-person hearings and trials.

#### Communications With the Regulator

##### How are filings made/meetings handled?

No single policy; varies.

## Other Antitrust Issues

### Competitor Collaborations

No update.

### Price Gouging

Arizona does not have a price gouging statute. In recent weeks, the AG and other elected officials have encouraged the Arizona Legislature to consider adopting such a statute.

### Misleading Advertising

The Arizona Consumer Fraud Act (“**ACFA**”) prohibits deceptive and false advertising. The ACFA provides for both public and private enforcement.

The AG has sent multiple cease-and-desist letters to Arizona businesses concerning false promises of COVID-19 immunity. On April 8, 2020, the AG and United States Attorney for Arizona announced a joint federal, state, and local task force to combat coronavirus-related fraud. The AG has also issued multiple statements that it will closely monitor allegations of fraud related to COVID-19.

### Enforcement Priorities

Consumer fraud, false advertising.

### Other Considerations

No update.

## USA, California

### Pepper Hamilton LLP

**Barbara Sicalides**  
sicalidesb@pepperlaw.com

**Pamela Palmer**  
palmerp@pepperlaw.com

Competition Authority: California Attorney General's Office (<https://oag.ca.gov/antitrust>)

#### Merger Review

##### New Filings Accepted?

No filing regime.

##### Waiting Period Delays?

N/A

#### Investigations/Litigation

##### Filings

Complaints may be filed online, by email, by fax, or by regular mail to the Office of the Arizona Attorney General (AG). Although the AG's office remains open to the public, the AG has encouraged that contact be made via phone ((800) 952-5225) or email whenever possible.

##### Delays/Other Considerations

The California Supreme Court all oral argument will be handled remotely. In Los Angeles County Superior Court, only essential matters will be addressed and all civil jury and non-jury trials scheduled between April 17 and May 12, 2020 will be continued to a date after June 22, 2020.

In San Francisco County Superior Court, only essential matters will be addressed and all civil jury and non-jury trials scheduled between April 16 and June 1, 2020 will be continued for 60 days. Criminal jury trials set before April 15 were also postponed.



The Orange County Superior Court is closed to the public, with minimal exceptions for time sensitive matters, or matters pertaining to the safety and security of the community.

The San Diego Superior Court has suspended all nonemergency services through April 30.

Each local state court has developed its own Covid-19 protocols and orders. .

## Communications With the Regulator

### How are filings made/meetings handled?

No single policy; varies.

## Other Antitrust Issues

### Competitor Collaborations

No update.

### Price Gouging

California's Price Gouging statute, California Code, Cal. Penal Code § 396 (the "Statute"), prohibits price gouging and imposes monetary penalties on violators. The Statute is triggered by two factors: (1) a proclamation of a state of emergency by the President of the United States or the Governor or a declaration of local emergency by an official, board, or other governing body vested with the authority to make that declaration; and (2) a price increase on certain goods or services that is 10 percent greater than the price of the good or service immediately before the proclamation or declaration of emergency. Cal. Penal Code § 396(b). The Statute prohibits price gouging of "consumer food items or goods, goods or services used for emergency cleanup, emergency supplies, medical supplies, home heating oil, building materials, housing, transportation, freight, and storage services, or gasoline or other motor fuels." § 396(b). Excess prices falling within the defined range are unlawful to the extent they apply from the date of the emergency proclamation or declaration through 30 days of the termination of the state of emergency. § 396(b).

An exception to liability under the Statute exists where the increase in price can be attributed to additional costs imposed on the defendant by the supplier or directly attributable to increase in the cost of labor or materials, "and the price is no more than 10 percent greater than the total of the cost to the seller plus the markup customarily applied by the seller for that good or service in the usual course of business immediately prior to the onset of the state of emergency or local emergency." § 396(b).

Price gouging is treated as a misdemeanor punishable by imprisonment in county jail for up to one year or by a fine of up to \$10,000 for each violation. A violation of the Statute is also considered to be an unlawful business practice and an act of unfair competition, which may subject the violator to additional penalties, including monetary penalties of up to \$2,500 per violation, injunctive relief and restitution under California Business and Professions Code § 17200 et seq.

Attorney General Becerra has made calls for online marketplaces in his jurisdiction to take specific steps to combat COVID-19 related price gouging. These steps include: supplementing algorithmic management of posts with human review, ensuring this review includes a review of shipping costs, banning third-party sellers that engage in price gouging, banning sales by new third-party sellers that are particularly ripe for price gouging abuse, such as surgical masks, cleaning supplies, hand sanitizer, and other items, restricting features that allow these items to be posted for bid, and referring bad actors to the Attorney General's Office. Attorney General Becerra has also made clear that the Statute is enforceable against retailers, wholesalers, distributors, or manufacturers.

### Misleading Advertising

California has many statutes addressing misleading advertising including a number that are industry or profession specific. For example, California Code, Cal. Food & Agric. Code § 61381 takes aim at false or misleading advertising related to dairy products and California Code, Cal. Bus. & Prof. Code § 7693 takes aim at false or misleading advertising in funeral services. The general and principal statute is California Code, Cal. Bus. & Prof. Code § 17500.

The AG has sent multiple cease-and-desist letters to Arizona businesses concerning false promises of COVID-19 immunity. On April 8, 2020, the AG and United States Attorney for Arizona announced a joint federal, state, and local task force to combat coronavirus-related fraud. The AG has also issued multiple statements that it will closely monitor allegations of fraud related to COVID-19.

On April 20, 2020, the Los Angeles City Attorney filed California v. RootMD, which asserts misleading advertising claims against defendants who allegedly misrepresented the efficacy and availability of in-home Covid-19 testing.

### Enforcement Priorities

Consumer fraud, false advertising, price gouging.

## Other Considerations

In a consumer class action filed on April 20, 2020, private plaintiffs brought claims against grocers for violation of California's Unfair Competition Law because of its violation of the Price Gouging Statute. The complaint alleges that defendants' price gouged "essential groceries, specifically eggs, in the midst of the ongoing and unprecedented pandemic." See *Adrienne Fraser, et al. v. Cal-Maine Foods, Inc., et al.*, 3:20-cv-02733, Doc. 1 (N.D. Cal. April 20, 2020).

On April 14, 2020, California was among six states to join in the U.S. Federal Trade Commission's and New York State's litigation against Martin Shkreli, Kevin Mulleady and two of their companies, Vyera Pharmaceuticals, LLC and Phoenixus AG. The complaint alleges that defendants engaged in an elaborate anticompetitive scheme to block lower cost competition and to preserve a monopoly for the life-saving drug, Daraprim. Claims added under California law include those brought under California's Cartwright Act, Cal. Bus. & Prof. Code § 16700 et seq. and under California's Unfair Competition Act, Cal. Bus. & Prof. Code, Code § 17200 et seq.

## USA, Georgia

### Alston & Bird LLP

**Teresa Bonder**

[Teresa.bonder@alston.com](mailto:Teresa.bonder@alston.com)

**Adam Biegel**

[Adam.biegel@alston.com](mailto:Adam.biegel@alston.com)

**Valarie Williams**

[Valarie.williams@alston.com](mailto:Valarie.williams@alston.com)

Competition Authority: Within the past week, the Task Force made its first case, and United States Attorney BJay Pak says the joint Task Force "has a number of cases currently under investigation. He expects more charges soon." (<https://www.fox5atlanta.com/news/joint-state-federal-covid-19-fraud-task-force-makes-its-first-case>)

### Merger Review

#### Price Gouging

On March 14, 2020, Governor Brian Kemp signed [Executive Order No. 44.02 KB](#), which declares a State of Emergency due to the Coronavirus ("COVID-19"). Governor Kemp recently extended this Order, and Georgia's law against price gouging is now in effect through May 13, 2020.

While the State of Emergency remains in [effect](#), businesses may not charge more for products and services identified by the Governor than they charged immediately before the declaration of the State of Emergency, unless the increased prices accurately reflect an increase in the cost of the goods or costs to transport them. A retailer may also increase prices to cover its costs for the goods plus the retailer's average markup percentage applied during the ten days immediately prior to the declaration of the State of Emergency. See [O.C.G.A. Section 10-1-393.4](#).

Such goods [include](#), but are not limited to, goods and supplies for household consumption and use, medical supplies or medication supplies, equipment needed to work from home, and products needed to maintain safety, sanitation, and essential maintenance of the home or residence. Violators can be fined from \$2,000 to \$15,000 per violation. [Attorney General Carr partnered](#) with members of the Georgia and national business communities – including Amazon, eBay, Walmart, Facebook, Chevron, Publix, the Georgia Association of Convenience Stores, the Georgia Retailers, the Georgia Food Industry Association and the Better Business Bureau – to combat price gouging and scams related to COVID-19.

## Enforcement Priorities

Georgia Forms Statewide Coronavirus Fraud Task Force: Georgia's leading state and federal prosecutors [announced](#) on Tuesday, April 7, a new Fraud Task Force aimed at better protecting Georgia citizens from fraud arising from COVID-19. Task force member agencies include the Office of the Governor of Georgia, the Office of the Attorney General of Georgia, the U.S. Attorney's Office for the Northern, Middle and Southern district of Georgia, three U.S. Attorneys and the Executive Counsel for the Governor's Office.

Charlie Peeler, U.S. Attorney for the Middle District of Georgia, stated that "anyone who uses this pandemic to defraud Georgians will be investigated and prosecuted to the fullest extent of the law." The COVID-19 Task Force warns Georgians to watch out for the following types of scams:

- **Treatment scams:** Scammers are selling fake vaccines, medicines, and cures for COVID-19.
- **Supply scams:** Scammers are claiming they have in-demand products, like cleaning and household supplies, and medical supplies, but when an order is placed, the scammer takes the money and never delivers the order.
- **Charity scams:** Scammers are fraudulently soliciting donations for non-existent charities to help people affected by the COVID-19 crisis. Scammers often use names that are similar to the names of real charities.
- **Phishing scams:** Scammers, posing as national and global health authorities, such as the World Health Organization (WHO) and the Centers for Disease Control and Prevention (CDC), are sending fake emails and texts to trick the recipient into sharing personal information like account numbers, Social Security numbers, and login IDs and passwords.
- **App scams:** Scammers are creating COVID-19 related apps that contain malware designed to steal the user's personal information.
- **Provider scams:** Scammers pretending to be doctors and hospitals demand payment for COVID-19 treatment allegedly provided to a friend or family member of the victim.

# North America

- **Investment scams:** To promote the sale of stock in certain companies—particularly small companies, about which there is little publicly available information—scammers are making false and misleading claims that those companies can prevent, detect or cure COVID-19.

## Other Considerations

N/A

## USA, Hawaii

### Case Lombardi & Petit

**Teresa Bonder**

[Teresa.bonder@alston.com](mailto:Teresa.bonder@alston.com)

**Adam Biegel**

[Adam.biegel@alston.com](mailto:Adam.biegel@alston.com)

**Valarie Williams**

[Valarie.williams@alston.com](mailto:Valarie.williams@alston.com)

#### Competition Authority:

- Department of Commerce and Consumer Affairs ("DCCA") (<https://cca.hawaii.gov/>)
- Public Utilities Commission ("PUC") (<https://puc.hawaii.gov/news/>)
- State Attorney General (<https://ag.hawaii.gov/>)

### Merger Review

#### New Filings Accepted?

The DCCA is accepting limiting electronic/online filings until the lifting of the "stay-at-home" orders. The PUC is accepting electronic filings.

#### Waiting Period Delays?

No, although DCCA has acknowledged that it may have difficulties meeting normal service standards.

### Investigations/Litigation

#### Filings

Electronic filings were required in Hawaii courts prior to the COVID-19 pandemic.



## Delays/Other Considerations

Delays due to limited ability for in-court and/or face-to-face meetings should be expected for the duration of the stay-at-home orders.

## Communications With the Regulator

### How are filings made/meetings handled?

Filings to the DCCA and PUC may be made electronically.

Both the DCCA and the PUC are operational, but offices are closed to the public until further notice, and staff is working from home.

## Competitor Collaborations

No special statement in light of COVID-19 Pandemic has been issued by Hawaii authorities in regard to collaborations.

## Price Gouging

Existing law regarding price increases during a state of emergency was invoked by the Governor's proclamation of emergency dated March 4, 2020 and continuing through April 29, 2020.

## Misleading Advertising

No special statement in light of COVID-19 Pandemic has been issued by Hawaii authorities in regard to misleading advertising.

## Enforcement Priorities

No special statement in light of COVID-19 Pandemic has been issued by Hawaii authorities in regard to enforcement priorities.

## Other Considerations

N/A

## USA, Louisiana

### Jones Walker LLP

**Mark A. Cunningham,**  
[mcunningham@joneswalker.com](mailto:mcunningham@joneswalker.com)

Competition Authority: Louisiana Attorney General (<https://www.ag.state.la.us/>)

#### **Merger Review**

##### **New Filings Accepted?**

No filing regime.

##### **Waiting Period Delays?**

N/A

#### **Investigations/Litigation**

##### **Filings**

Complaints and communications with Staff may be filed electronically.

##### **Delays/Other Considerations**

Louisiana state law imposes rocket docket features at trial court and appellate court levels on all antitrust claims filed in state court. A number of courts are currently closed but many also are conducting business via video conference or by telephone.

#### **Communications With the Regulator**

##### **How are filings made/meetings handled?**

No single policy. Varies depending on wide range of factors.

## Other Antitrust Issues

### Competitor Collaborations

Louisiana state antitrust laws mirror Sections 1 and 2 of the Sherman Act. Louisiana also has an expansive unfair trade practices statute with a private right of action for competitors and consumers.

### Price Gouging

Louisiana has a specific price gouging statute which allows for the filing of civil and criminal penalties. Price gouging is defined as the increase in prices or value for goods and services that are higher than the prices ordinarily charged for comparable goods and services at or immediately before the time of a state of emergency. Once a state of emergency is declared by the governor or parish president, a price gouging ban is placed on the area declared to be under the state of emergency. The ban may remain in effect for up to 30 days after the state of emergency ends. The state of emergency in Louisiana is currently set to expire on May 1, 2020 but may be extended by the Governor.

### Misleading Advertising

Misleading and false advertising is prohibited by the unfair trade practice statute in Louisiana. The Louisiana Attorney General has standing under the statute to seek injunctive relief and penalties.

### Enforcement Priorities

Price Gouging, Consumer Fraud, Corruption

### Other Considerations

New Orleans and surrounding communities have been hit particularly hard by the current crisis. There is heightened sensitivity in this jurisdiction to consumer fraud and corruption related to government programs.

## USA, Massachusetts

### Foley Hoag LLP

**Lisa C. Wood**

[lwood@foleyhoag.com](mailto:lwood@foleyhoag.com)

**Austin A.B. Ownbey**

[aownbey@foleyhoag.com](mailto:aownbey@foleyhoag.com)

**Competition Authority:** Massachusetts Attorney General (<https://www.mass.gov/orgs/office-of-attorney-general-maura-healey>)

### Merger Review

#### New Filings Accepted?

N/A

#### Waiting Period Delays?

N/A

### Investigations/Litigation

#### Filings

All litigation matters in front of Massachusetts state courts must be filed electronically except in exigent circumstances.

#### Delays/Other Considerations

On April 1, the Massachusetts Supreme Judicial Court extended its orders postponing all Massachusetts state trials (other than those currently ongoing) until May 6 and closing state courthouses for all but emergency matters (with proceedings requiring judicial involvement to be conducted by videoconference or telephone). In particular, the SJC's extended order expressly tolls all statutes of limitations and deadlines that would otherwise expire before May 4, 2020 to be extended to that date (unless otherwise ordered by one of the trial court departments).

## Communications With the Regulator

### How are filings made/meetings handled?

To the extent possible, all of the AG's staff have shifted to remote work. Walk-ins to the AG's physical office locations will not receive in-person service. Instead, the AG is encouraging everyone to file complaints online or call the office. All of the AG's hotlines remain fully staffed during regular business hours, including the consumer Attorney General's Consumer Advocacy and Response Division's Consumer Hotline.

## Other Antitrust Issues

### Competitor Collaborations

Prior to the COVID-19 crisis, the Massachusetts AG joined with Attorneys General from ten other states and the District of Columbia in several multistate investigations and enforcement actions against worker no-poach agreements. While there have been no announcements of new investigations during the current crisis, the recent joint announcement from the Federal Trade Commission and U.S. Justice Department that they remain focused on possible collusion in U.S. Labor Markets is a reminder that the state Attorneys General, including the Massachusetts AG are likely on the lookout for companies attempting to exploit the current circumstances to suppress competition in the labor market.

### Price Gouging

The Massachusetts AG announced an amendment to a statewide regulation that classifies selling a product "necessary for the health, safety or welfare of the public for an amount that represents an unconscionably high price" as illegal. The AG's Office has announced that will be watching retailers that inflate prices on products like hand sanitizer and face masks very closely.

The Massachusetts law against price gouging previously only banned selling petroleum products for an unconscionably high price.

### Misleading Advertising

N/A

### Enforcement Priorities

To date, antitrust enforcement has not been a priority for the Massachusetts AG, instead the AG's top current enforcement priorities include price gouging, debt collection and the failure to appropriately provide refunds related to disruptions caused by the current crisis (especially travel organizations and colleges).

For more information regarding the Massachusetts AG's actions in response to the current crisis see <https://www.stateaginsights.com/>.



## Other Considerations

N/A

## USA, New Jersey

### Day Pitney LLP

**Ben Haglund**

[bhaglund@daypitney.com](mailto:bhaglund@daypitney.com)

#### Price Gouging

Governor Phil Murphy signed Executive Order No. 103, which declares a state of emergency across all 21 counties in the State as of March 9, 2020. New Jersey's law against price gouging is now in effect. This law prohibits excessive price increases during a declared state of emergency, or for 30 days after the termination of the state of emergency.

Excessive price increases are defined as price increases that are more than 10 percent higher than the price at which merchandise was sold during the normal course of business prior to the state of emergency. See New Jersey's Consumer Fraud Act for more information.

#### Anti-Hoarding of Certain Medications Administrative Regulation

Addressing concerns of potential drug shortages caused by the inappropriate prescribing and hoarding of drugs touted by some as possible treatments for COVID-19, Attorney General Gurbir S. Grewal and the Division of Consumer Affairs today announced statewide restrictions for prescribing and dispensing those medications as set forth in Division of Consumer Affairs Administrative Regulation No. 2020-01. The Division's order, which applies effective immediately and until further notice, mandates that any prescription for a drug in short supply due to its use in possible treatment of COVID-19, such as hydroxychloroquine and chloroquine, must include a diagnosis or diagnostic code and should be supported in the patient's record. Prescriptions without this information are invalid and may not be filled by pharmacists.

## Other Considerations

Establishment of Federal-State COVID-19 Fraud Task Force: On March 30, 2020, U.S. Attorney Craig Carpenito, New Jersey Attorney General Gurbir S. Grewal, and New Jersey Acting State Comptroller Kevin D. Walsh announced the formation of a joint federal-state task force to investigate and prosecute a wide range of misconduct arising from the COVID-19 pandemic, including the unlawful hoarding of medical supplies, price gouging, charity scams, procurement fraud, insurance fraud, phishing schemes, and false and misleading investment opportunities.

The Task Force warned New Jerseyans about the most common types of COVID-related frauds and misconduct, including:

- **Unlawful hoarding:** The Department of Health and Human Services (“HHS”) issued a Notice pursuant to President Trump’s Executive Order 13910 and the Defense Production Act, which designated health and medical resources necessary to respond to the spread of COVID-19 that are scarce or the supply of which would be threatened by excessive accumulation. These designated materials are subject to the hoarding prevention measures authorized under the Executive Order and the Act. Individuals or businesses that violate the Act will be subject to prosecution.
- **Price-gouging:** Individuals and businesses may sell essential goods, like hand sanitizer, for significantly higher prices than in a non-emergency setting. New Jersey’s price gouging law bans excessive price increases during a declared state of emergency and for 30 days after it ends. A price increase is considered excessive if the new price is more than 10 percent higher than the price charged during the normal course of business prior to the emergency. Price gouging violations are punishable by fines of up to \$10,000 for the first violation and \$20,000 for each subsequent violation.
- **Treatment scams:** Scammers are offering to sell fake cures, vaccines, and advice on unproven treatments for COVID-19.
- **Supply scams:** Scammers are creating fake shops, websites, social media accounts, and email addresses claiming to sell medical supplies currently in high demand, such as surgical masks. When consumers attempt to purchase supplies through these channels, fraudsters pocket the money and never provide the promised supplies.
- **Provider scams:** Scammers are also contacting people by phone and email, pretending to be doctors and hospitals that have treated a friend or relative for COVID-19, and demanding payment for that treatment.
- **Charity scams:** Scammers are soliciting donations for individuals, groups, and areas affected by COVID-19.
- **Phishing scams:** Scammers posing as national and global health authorities, including the World Health Organization (WHO) and the Centers for Disease Control and Prevention (“CDC”), are sending phishing emails designed to trick recipients into downloading malware or providing personal identifying and financial information.
- **App scams:** Scammers are also creating and manipulating mobile apps designed to track the spread of COVID-19 to insert malware that will compromise users’ devices and personal information.

- **Investment scams:** Scammers are offering online promotions on various platforms, including social media, claiming that the products or services of publicly traded companies can prevent, detect, or cure COVID-19, and that the stock of these companies will dramatically increase in value as a result. These promotions are often styled as “research reports,” make predictions of a specific “target price,” and relate to microcap stocks, or low-priced stocks issued by the smallest of companies with limited publicly available information.

## USA, Ohio

### Calfee, Halter & Griswold LLP

**Maura L. Hughes**  
[mhughes@calfee.com](mailto:mhughes@calfee.com)

**Lindsey Sacher**  
[lsacher@calfee.com](mailto:lsacher@calfee.com)

Competition Authority: Ohio Attorney General, Antitrust Division (<https://www.ohioattorneygeneral.gov/Legal/Antitrust>)

#### Merger Review

##### New Filings Accepted?

N/A

##### Waiting Period Delays?

N/A

#### Investigations/Litigation

##### Filings

**Tolling of Statutes of Limitation:** Ohio HB 197, enacted on March 27, 2020, tolls statutes of limitation during the period of the COVID-19 emergency. The law, retroactive to March 9, 2020, tolls any statute of limitations that would have expired between March 9th and the earlier of July 30, 2020, or the end of the period of emergency as declared by the Governor of Ohio.

## Delays/Other Considerations

**Tolling of certain deadlines in Ohio courts:** *HB 197, in conjunction with an order of the Ohio Supreme Court, In re Tolling of Time Requirements Imposed by Rules Promulgated by the Supreme Court and Use of Technology*, 2020-Ohio-1166 (“Order”), tolls court deadlines that were set prior to March 9, 2020, and would have expired from March 9, 2020 through the earlier of July 30, 2020 or the end of the period of emergency. Tolloed deadlines include discovery deadlines and the time within which a party must be served. Deadlines set after March 9, 2020 are not affected.

## Communications With the Regulator

### How are filings made/meetings handled?

No updates.

## Other Antitrust Issues

### Competitor Collaborations

No updates.

## Price Gouging

On March 19, 2020, the Ohio Attorney General announced an intention to work with the Ohio Assembly to seek a new anti-price gouging law that does not rely on price controls. Ohio does not currently have a state law specifically dealing with price gouging, although the Consumer Sales Practices Act, O.R.C. Chapter 1345, prohibits unconscionable sales practices. As of April 2020, the Attorney General had filed at least one enforcement action, alleging unconscionable price gouging by an online reseller selling Personal Protective Equipment.

## Misleading Advertising

No updates.

## Enforcement Priorities

No updates.

## Other Considerations

No updates.

## USA, Pennsylvania

### Pepper Hamilton LLP

**Barbara Sicalides**

[Sicalidesb@pepperlaw.com](mailto:Sicalidesb@pepperlaw.com)

Competition Authority: Pennsylvania Attorney General (<https://www.attorneygeneral.gov/>)

#### **Merger Review**

##### **New Filings Accepted?**

No filing regime

##### **Waiting Period Delays?**

N/A

#### **Investigations/Litigation**

##### **Filings**

Complaints may be filed online, by email, by fax, or by regular mail to the Office of the Pennsylvania Attorney General (AG). Although the AG's office remains open to the public, the AG has encouraged that contact be made via phone or email whenever possible.

##### **Delays/Other Considerations**

By order of the Supreme Court of Pennsylvania, all Pennsylvania Courts are generally closed to the public, beginning at the close of business March 19, 2020, and lasting through at least April 30, 2020, subject to general and specific directives and exceptions in the order.

#### **Communications With the Regulator**

##### **How are filings made/meetings handled?**

No single policy; varies.



## Other Antitrust Issues

### Competitor Collaborations

No updates.

### Price Gouging

The Pennsylvania Price Gouging Act, 73 P.S. § 232.4 (the Act), prohibits price gouging is triggered by two factors: (1) declaration of a state of emergency declared by Pennsylvania's governor, pursuant to 35 Pa.C.S. § 7301(c); and (2) unconscionably excessive prices, meaning retail or resale prices that are "20% [or higher than] the average price at which the same or similar consumer goods or services were obtainable in the affected area during the last seven days immediately prior to the declared state of emergency." Excess prices falling within the defined range are unlawful to the extent that they apply from the date of the emergency declaration through 30 days of the termination of a state of disaster.

Although the excessive price is deemed prima facie evidence, the Act specifies certain exemptions. The Act would not apply if the cause of the increase in price is "substantially attributable to additional costs that arose within the chain of distribution and including replacement costs, credit card costs, taxes and transportation costs or if the price was approved by an authorized Federal or Commonwealth agency.

Typically, state laws provide for the imposition of monetary fines for price-gouging. The penalty for price gouging in Pennsylvania is a fine of up to \$10,000 for each violation. The Act also provides for the remedies of injunctive relief, restitution, and an award of costs. Pennsylvania Attorney General Josh Shapiro has created a special email address dedicated to reporting of price gouging -- [pricegouging@attorneygeneral.gov](mailto:pricegouging@attorneygeneral.gov). Complainants have been asked to provide four specific pieces of information when reporting price-gouging: name of the product; price of product; name of retailer; and the location of store (address or website). As of April 18, the Pennsylvania AG had received more than 4,224 complaints. Attorney General Shapiro reported that the complaints have been directed at a wide range of sellers, including "big box," small stores, and Internet retailers and a broad range of products including toilet paper, hand sanitizer, and various food products.

Attorney General Shapiro recently said that his office contacts the accused business and asks them to stop price-gouging. Most of the violators comply, he said, but about 320 cease and desist letters have been issued by the Attorney General's Office. "I'm not interested in getting into a long, protracted legal battle. I'm interested in getting these merchants to just cut it out," Shapiro said. The Attorney General's Office has provided some examples of conduct that it has classified as price gouging, including a case of water previously selling for \$3.99 being sold for \$5.99, six rolls of toilet paper previously selling for \$3.99 being sold for \$9.99, and facemasks previously selling for less \$5.00 being sold for \$49.99.

## Misleading Advertising

Pennsylvania Unfair Trade Practices and Consumer Protection Law (UTCPL), 73 P.S. 201-1 et seq., prohibits deceptive and false advertising. The Bureau of Consumer Protection contact details are:

Office of Attorney General  
Bureau of Consumer Protection  
15th Floor, Strawberry Square  
Harrisburg, PA 17120

Consumer Protection Hotline: (800) 441-2555

<https://www.attorneygeneral.gov/public-protection-division/bureau-consumer-protection/>

## Enforcement Priorities

Price gouging, consumer fraud, false advertising.

## Other Considerations

United States Attorney for the Western District of Pennsylvania, and Pennsylvania Attorney General Josh Shapiro today announced the formation of a joint federal and state Western Pennsylvania COVID-19 Fraud Task Force to investigate and prosecute coronavirus-related fraud.

On April 14, 2020, Pennsylvania was among six states additional to join the U.S. Federal Trade Commission's and New York State's litigation against Martin Shkreli, Kevin Mulleady and two of their companies, Vyera Pharmaceuticals, LLC and Phoenixus AG. The complaint alleges that defendants engaged in an elaborate anticompetitive scheme to block lower cost competition and to preserve a monopoly for life-saving drug, Daraprim. Claims added under Pennsylvania law include those brought under Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1 et seq. and Common Law Doctrine against Restraints of Trade proceeding under 71 P.S. §732-204 (c).

## USA, South Carolina

### Wyche

**Henry Parr**

[hparr@wyche.com](mailto:hparr@wyche.com)

Competition Authority: South Carolina Code 39-5-145. Price gouging during emergency; definitions; penalty; evidence of knowledge or intent ([https://www.lawserver.com/law/state/south-carolina/sc-code/south\\_carolina\\_code\\_39-5-145](https://www.lawserver.com/law/state/south-carolina/sc-code/south_carolina_code_39-5-145))

### Merger Review

#### New Filings Accepted?

N/A

#### Waiting Period Delays?

N/A

### Investigations/Litigation

#### Filings

Electronic filings are being accepted in most courts.

#### Delays/Other Considerations

In person hearings have been suspended in most courts.

### Communications With the Regulator

#### How are filings made/meetings handled?

Communications with the Attorney General must be remote.

# North America

## Other Antitrust Issues

### Competitor Collaborations

No change.

### Price Gouging

South Carolina's anti-price gouging law's provisions are now effective due to declaration of emergency.

### Misleading Advertising

N/A

### Enforcement Priorities

The attorney general is prioritizing enforcement of the anti-price gouging law.

### Other Considerations

N/A

## USA, Tennessee

### Bass, Berry & Sims PLC

**Dale Grimes**

[dgrimes@bassberry.com](mailto:dgrimes@bassberry.com)

**Michael Dashefsky**

[Michael.dashefsky@bassberry.com](mailto:Michael.dashefsky@bassberry.com)

**Lucas Smith**

[lsmith@bassberry.com](mailto:lsmith@bassberry.com)

Competition Authority: Tennessee State Attorney General's Office Division of Consumer Affairs/Consumer Protection Division  
(<https://www.tn.gov/attorneygeneral/working-for-tennessee/consumer/about-us.html>)

### Merger Review

#### New Filings Accepted?

N/A (the Attorney General does not conduct merger reviews).

#### Waiting Period Delays?

N/A (the Attorney General does not conduct merger reviews).

### Investigations/Litigation

#### Filings

Filings are currently being accepted.

#### Delays/Other Considerations

The Attorney General has not indicated that processing of complaints is currently delayed.

### Communications With the Regulator

#### How are filings made/meetings handled?

Filings are accepted online via [complaint form](#). Once the complaint is filed, the business will be sent a copy of the complaint along with a letter asking the business to respond directly to complainant to resolve the dispute. In the letter the Attorney General also asks the business to inform



them of any resolution so that this information may be included in the file. Complainant will receive a copy of this letter. It takes approximately 30 days for Attorney General staff to process a complete complaint.

## Other Antitrust Issues

### Competitor Collaborations

The Attorney General has not posted guidance on competitor collaborations.

### Price Gouging

The Attorney General has posted [guidance](#) on “Price Gouging FAQs.”

The Attorney General ordered two individuals to stop buying and selling medical goods and products following reports of possible price gouging while an investigation into their actions is underway.

The Attorney General [announced](#) that “[w]e will not tolerate price gouging in this time of exceptional need, and we will take aggressive action to stop it. . . . During this pandemic, we ask that you report suspicious activity to the Division of Consumer Affairs and refrain from threatening or hostile communication with individuals or businesses you may suspect are price gouging. Our team will review complaints closely and we are prepared to act to protect Tennesseans.”

### Misleading Advertising

The Attorney General posted an [alert](#) to “Avoid Coronavirus Scams,” including fake/misleading product claims.

### Enforcement Priorities

The Attorney General has not posted guidance specifically indicating enforcement priorities, but it appears from the Attorney General’s [announcement](#) and [alert](#) that there is a focus on price gouging and consumer scams.

### Other Considerations

The Attorney General has not posted guidance on other considerations.

## USA, Texas

### Baker Botts L.L.P.

**Tom Fina**

[Thomas.fina@bakerbotts.com](mailto:Thomas.fina@bakerbotts.com)

Competition Authority: Office of the Attorney General of Texas (<https://www.texasattorneygeneral.gov/>)

#### Merger Review

##### New Filings Accepted?

No filing regime exists.

##### Waiting Period Delays?

N/A

#### Investigations/Litigation

##### Filings

Complaints and communications with staff may be filed electronically.

##### Delays/Other Considerations

Some Texas courts are partially closed or temporarily closed; some courts have postponed all non-essential civil and criminal trials and hearings until further notice.

#### Communications With the Regulator

##### How are filings made/meetings handled?

No single policy; varies.

## Other Antitrust Issues

### Competitor Collaborations

No update.

### Price Gouging

§17.46(b) of the Texas Deceptive Trade Practices-Consumer Protection Act provides that it is a false, misleading or deceptive act or practice to take advantage of a disaster declared by the Governor under Chapter 418, Government Code. Texas Governor Greg Abbott declared a disaster on March 13, 2020. Price gouging is illegal, and the Office of the Attorney General has authority to prosecute any business that engages in price gouging after a disaster has been declared. Texas Attorney General Ken Paxton has issued a stern warning to retail suppliers, including those who supply grocery stores and pharmacies, that state law strictly prohibits price gouging in the wake of a declared disaster. The Texas AG is actively investigating price gouging complaints.

### Misleading Advertising

False, deceptive and misleading advertising is prohibited by the Deceptive Trade Practices Act (“**DTPA**”). The DTPA provides for both public and private enforcement.

### Enforcement Priorities

Price gouging, consumer fraud, consumer protection.

### Other Considerations

No update.



## About Lex Mundi

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Houston, Texas USA 77027  
[www.lexmundi.com](http://www.lexmundi.com)



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Houston, Texas USA 77027  
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